



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.11.2024

CORAM

THE HONOURABLE MR.JUSTICE VIVEK KUMAR SINGH

W.P.No.17651 of 2024

D.Srividhya

... Petitioner

Vs.

1.The State of Tamil Nadu,
Rep by the Principal Secretary to Government,
Health, Medical Education and Family Welfare,
Secretariat, Fort St. George,
Chennai 600 009.

2.The Commissioner of Indian Medicine and Homoeopathy,
Department of Indian Medicine and Homoeopathy,
NSK Nagar, Arumbakkam,
Chennai 600 106.

3.The Principal,
Excel Medical College for Naturopathy and Yoga,
Ranganoor Road, Komarapalayam,
Namakkal District.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to return the original certificate of the petitioner collected by the third respondent at the time of her BNYS admission forthwith.



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For Petitioner : Mr.M.R.Elavarasan
For Respondents : Mrs.M.Sneha,
Standing Counsel for R1 & R2
Mr.Kandan Duraisami for R3

ORDER

This Writ Petition has been filed seeking a direction to the respondents to return the original certificate of the petitioner collected by the third respondent at the time of her BNYS admission forthwith.

2.Heard the learned counsel on either side and also perused the materials available on record.

3.The learned counsel for the petitioner submitted that the petitioner was selected and admitted in the course of Bachelor of Naturopathy and Yoga Science (BNYS) through self-financing and subsequent to the admission, she joined in the third respondent College by submitting all her original certificates and also paid fees for a sum of Rs.1,65,000/-. Due to her family circumstances, the petitioner was unable to pay the pending fees and discontinued her studies in the month of March 2024. Thereafter, the petitioner made a request to the third respondent to return her certificate for



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applying arts group in the Government College. But the same was refused by the third respondent and insisted to pay a sum of Rs.1,00,000/- as penalty for discontinuing the course. He further submitted that this Court has held that the educational certificates of the candidates cannot be retained for any reason as no lien can be thereon and further, held that the educational certificates are not marketable commodities within the meaning of Section 171 of Indian Contract Act, 1872. Therefore, the possession of the educational certificates by the third respondent is illegal and arbitrary. In support of his contention, he relied on the judgment of this Court in W.P.No.34541 of 2023 dated 21.03.2024 and W.P.(MD).No.9966 of 2024 dated 25.04.2024.

4. The learned Standing Counsel for the respondents 1 and 2 submitted that Tamil Nadu Dr.M.G.R. Medical University, Chennai is the affiliating University for undergraduate course of Bachelor of Naturopathy and Yogic Sciences and the Secretary, Selection Committee, Directorate of Indian Medicine and Homoeopathy, Chennai is the designated State Counselling Authority for admission to undergraduate / postgraduate Medical Degree courses in AYUSH (Ayurveda, Yoga and Naturopathy, Unani, Siddha and



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Homoeopathy) in the State of Tamil Nadu. As such, the Secretary, Selection Committee, Directorate of Indian Medicine and Homoeopathy, Chennai, who is the designated State Counselling Authority, had conducted admission and selection process for AYUSH courses for the academic year 2023-24. The first respondent has approved the Prospectus for admission to BNYS course under management quota seats in self-financing Yoga and Naturopathy Medical Colleges in the State of Tamil Nadu for the academic year 2023-24 vide G.O.(D).No.897, Health and Family Welfare Department, dated 24.07.2023. The petitioner applied for the said post in self-financing Colleges for the academic year 2023-24. The details of fees and other conditions relating to the course including the penalty payable in the event of discontinuance of the course have been elaborated in the Prospectus. Having known all the clauses in the Prospectus, the petitioner applied for the course, attended the counselling and joined the BNYS course in the Excel Medical College for Naturopathy and Yoga, Namakkal. The parents of the petitioner have executed an undertaking as stipulated in Clause 22 of the Prospectus for the academic year 2023-24 in an non judicial bond of Rs.20/-. Since the petitioner has not paid the penalty amount to the Director of Indian Medicine and Homoeopathy, Chennai, she cannot be relieved from the College. The



Clause 22 of the Prospectus for Management quota seats for the academic year 2023-24 are as follows:-

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“(i) Candidates selected for admission and his/her parent/guardian will have to execute an Agreement Bond as prescribed in Appendix-II. Failure to execute the Agreement Bond will lead to cancellation of selection;

(ii) Candidates who discontinue the course on or after the last cut off date for admission process for the academic session 2023-24 and on any date of the subsequent year are bound by the bond and thereby they shall have to pay a sum of Rs.1,00,000/- (Rupees One Lakh only) as penalty for having breached the contract in the bond by means of Demand Draft drawn in favour of the Director of Indian Medicine and Homoeopathy, Chennai 106 payable at Chennai.”

5. In view of the submissions made by the learned counsel on both sides and on perusal of the Clause 22 of the Prospectus for Management quota seats for the academic year 2023-24 and also taking note that having known all the clauses in the Prospectus, the petitioner applied for the course, attended the counselling and joined the BNYS course at the Excel Medical College for Naturopathy and Yoga, Namakkal and her parents had also



executed an undertaking in the bond, this Court is not inclined to grant any relief as sought for by the petitioner.

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6. In view of the above, this Court is of the opinion that this writ petition lacks merits and it is liable to be dismissed. Accordingly, this Writ Petition stands dismissed. No costs.

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Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation : Yes / No

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