

(2021) 02 KL CK 0107

In the High Court Of Kerala

Case No : Writ Petition (C) No. 26678 Of 2020

Greeshma Sonny

APPELLANT

Vs

Commissioner For Entrance Examinations Kerala And Ors

RESPONDENT

Date of Decision : 19-02-2021

Acts Referred:

Constitution Of India, 1950 — Article 226

Citation : (2021) 02 KL CK 0107

Hon'ble Judges : N. Nagaresh, J

Bench : Single Bench

Advocate : M.V. Thamban, R. Reji, Thara Thamban, B. Bipin, Arun Bose, Babu Karukapadath, M.A. Asif

Final Decision : Disposed Of

Judgement

1. The petitioner has approached this Court seeking to direct the respondents to release the original marklists of Class X and XII of the petitioner along

with the originals of Migration certificate, Transfer Certificate and Fitness Certificate and ₹ 1 lakh collected by the 1st respondent towards admission

fee.

2. When this writ petition came up on 01.11.2019, this Court passed an interim order directing respondents 2 and 3 to release to the petitioner the

originals of her marklists as also Migration Certificate, Transfer Certificate and Fitness Certificate, on her furnishing a Bank Guarantee of ₹ 4 lakhs.

3. The counsel for the petitioner submits that pursuant to the interim order, a Bank Guarantee has been given by the petitioner and the original

documents sought for by the petitioner has been returned by the College.

4. The learned counsel for the petitioner would urge that the petitioner wanted to discontinue the course and intimated her desire to the 1st respondent

on 12.09.2019 as per Ext.P3 e-mail. Subsequent representations were also made. The admission process was closed on 15.09.2019 as evidenced from

Ext.P6. As the petitioner had expressed her desire to leave the course before closure of the admission, liquidated damages cannot be realised from the petitioner.

5. The statement filed by the Government would show that the Government could download Ext.P3 e-mail communication only after 15.09.2019, after

the closure of the admission. The learned Government Pleader would submit that ☐ 1 lakh collected by the 1st respondent towards admission fee has

already been remitted back to the College on 22.10.2019.

6. The issue involved in this writ petition is whether the petitioner has sought to leave the Course before the closure of the admission process. Even if

the petitioner contends that she has sent e-mail much prior to the closure of the admission, the statement filed by the 1st respondent would reveal that

the e-mail sent by the petitioner could be downloaded only on 16.09.2019. This is a disputed question of fact which this Court cannot entertain in a

proceeding under Article 226 of the Constitution of India.

7. The petitioner has an effective remedy for the redressal of her grievance through the Admission Fee Regulatory Committee.

In such circumstances, the writ petition is disposed of permitting the petitioner to approach the Admission Fee Regulatory Committee for agitating her

grievance with appropriate application, within a period of three weeks. To enable the petitioner to approach the Admission Fee Regulatory Committee

and in the interest of justice, the interim order passed by this Court on 20.01.2021 will continue to enure to the benefit of the petitioner for a period of

four weeks.