

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 06.07.2015

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.19118 of 2015

Dr.S.S.Kumaran

... Petitioner

Versus

1. The Director of Medical Education
Directorate of Medical Education
Kilpauk
Chennai-600 010.

2. The Dean
Madurai Medical College
Madurai - 625 020

... Respondents

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, seeking for a writ of mandamus, directing the respondents to refund the sum of Rs.5 00 000/- (Rupees five Lakhs) collected from the petitioner under a bond executed by the petitioner at the time of his DCH (Diploma in Child Health) admission at the 2nd respondent college by passing orders on the representation dated 17.04.2015.

For Petitioner : Mr.G.Justin

For Respondents : Mr.Rm.Muthukumar
Government Advocate.

सत्यमेव जयते
O R D E R

By consent, the writ petition is taken up for final disposal.

2. The petitioner got admission to the 2nd respondent College under State Quota and joined the college in DCH (Diploma in Child Health) during the Academic Year 2010-11 and at the time of joining the course, all the original certificates were entrusted to the 2nd respondent on the promise that after completion of the course, they will be returned to him. The 2nd respondent also got a bond executed by the petitioner like other students and since, he has to undergo the Diploma course, he was not in a position to refuse the

execution of bond and he also executed the same under undue influence and compelling circumstances. The petitioner after completing the Diploma course during April 2012, requested for return of all his original certificates. But, it was refused by the 2nd respondent, who insisted on complying the bond condition and he has paid a sum of Rs.5 Lakhs by means of a Demand Draft, in the account of Dean Welfare Fund and thereafter, got his original certificates.

3. The petitioner would contend that in respect of an admission under All India as well as State quota, bond amount cannot be collected and it is liable to be refunded and in this regard, he submitted a representation dated 17.04.2015 to the respondents and since, he has not been favoured with any response, came forward to file this writ petition.

4. Mr.G.Justin, learned counsel appearing for the petitioner has drawn the attention of this Court to the order dated 12.12.2008 made in W.P.No.12923 of 2008, which was confirmed in the judgment dated 11.11.2011 in W.A.No.1444 of 2008 and would submit that in the light of the above said judgment, coupled with the fact that the agreement was also a unilateral one executed by the petitioner under compelling circumstances, prayed for refund of the bond amount collected from the petitioner.

5. The Court heard the submissions of Mr.R.Vijayakumar, learned Additional Government Pleader, who accepts notice on behalf of the respondent and it is relevant to extract the order dated 12.12.2008, made in W.P.No.12923 of 2008.

"30. In fine, all the writ petitions are disposed of on the following terms:

- (1) The PG Degree/Diploma holders, who applied for their Degree/Diploma Course through All India Entrance Examination for selection to All India Quota seats and admitted to Tamil Nadu Government Medical Colleges are not bound by the terms and conditions issued by the respondents through their prospectus. Even if any candidate executed bond, it will have no effect since they have not applied for admission under the impugned prospectus.
- (2)
- (3) No PG Degree / Diploma Holder shall be denied of their certificates in original on their completion of their course as the respondents have no jurisdiction to retain their certificates and the respondents are directed to return all the certificates of the petitioners within two weeks from the date of the receipt of copy of this order...."

6. Though, the petitioner has prayed for a larger relief, this Court, without going into the merits of the claim projected by the petitioner, directs the 2nd respondent to consider the representation dated 17.04.2015 submitted by the petitioner, in accordance with law after taking note of the above said order and pass orders within a period of six weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioner.

7. The writ petition is disposed of, accordingly. No costs.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

1. The Director of Medical Education
Directorate of Medical Education
Kilpauk
Chennai-600 010.
2. The Dean
Madurai Medical College
Madurai - 625 020

+1cc to M/s.G.Justin, Advocate, S.R.No.33814
+1cc to the Government Pleader, S.R.No.33993

सत्यमेव जयते

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SVI (CO)
CA(22/07/2015)

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