

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 23.01.2015

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.Nos.29391 to 29402 of 2014; W.P.No.29776 of 2014; W.P.No.30301
of 2014; W.P.No.30542 of 2014 and
W.P.No.30881 of 2014 and M.P.Nos.1 to 1 and 2 to 2 of 2014

- 1.Dr.Ramasamy Balamuruga Babu ...Petitioner in W.P.No.29391/2014
- 2.Dr.Kandasamy Sambath ...Petitioner in W.P.No.29392/2014
- 3.Dr.Jagadesh Kumar Rajamani ...Petitioner in W.P.No.29393/2014
- 4.Dr.Javad Khaja Moinudeen ...Petitioner in W.P.No.29394/2014
- 5.Dr.Parameswaran Dharmalingam ...Petitioner in W.P.No.29395/2014
- 6.Dr.Ganapathy Balamurgan ...Petitioner in W.P.No.29396/2014
- 7.Dr.Ponuswamy Hariivira Vijayakumar ...Petitioner in W.P.No.29397/2014
- 8.Dr.Swaminatha Raj Suresh Raj Kumar ...Petitioner in W.P.No.29398/2014
- 9.Dr.Duraisamy Palani Samy ...Petitioner in W.P.No.29399/2014
- 10.Dr.A.M.Karthik Kumar Dos ...Petitioner in W.P.No.29400/2014
- 11.Dr.Dhamodharasamy Satish Shanmugaraj ...Petitioner in W.P.No.29401/2014
- 12.Dr.Subash Chandran Alagappan ...Petitioner in W.P.No.29402/2014
- 13.Dr.Vivekanantharaj Dhanasekaran ...Petitioner in W.P.No.29776/2014
- 14.Dr.M.Maheswaran
 - a.Dr.Yasser Arafath
 - b.Dr.M.Gokulakannan
 - c.Dr.S.Prasanna Venkataramanan
 - d.Dr.M.Dharmaraj
 - e.Dr.K.Vijayakumar
 - f.Dr.M.Venkatesh
 - g.Dr.Naseemulla Sheriff
 - h.Dr.Senthil Ramkumar
 - i.Dr.Omar Faroque
 - j.Dr.N.L.Anandhi ...Petitioners in W.P.No.30301/14
- 15.Dr.Palamalai Dinakaran ...Petitioner in W.P.No.30542/14
- 16.Dr.Kamalanathan Periyasamy ...Petitioner in W.P.No.30881/14

Vs

1. Tamilnadu Medical council
rep. By its President,
New No.914, Old No.569,
Poonamallee High Road,
Arumbakkam, Chennai - 600 106

2. Tamilnadu Medical Council,
rep. By its Registrar,
New No.914, Old No.569,
Poonamallee High Road,
Arunkakkam, Chennai - 600 106

3. The Medical Council of India
rep. By its Chairman,
Pocket 14, Sector 8, Dwaraka Phase I
New Delhi - 110077

4. State of Tamilnadu
rep. By its Secretary,
Health and Family Welfare Department,
Secretariat,
Chennai - 600 009

...Respondents in all the WPs.

Prayer :- Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records of the 2nd respondent relating to the communication dated 20.10.2014 issued under Ref.No.TNMC/G513/2014, quash the same.

For Petitioner
in W.P.Nos.29391 to 29402 of 2014
in W.P.Nos.29776,
30542 and 30881 of 2014 :Mr.R.Bharath Kumar

For Petitioner :Mr. S.Thangavel
in W.P.No.30301 of 2014
For Respondents in all WPs :Mr.Veerakathiravan for R1 and R2
Mr.V.P.Raman for R3
Mr.R.Vijayakumar for R4
Additional Government Pleader

C O M M O N O R D E R

Heard Mr.R.Bharathkumar and Mr.S.Thangavel, learned counsel appearing for the petitioner and Mr.Veerakathiravan, learned counsel appearing for R1 and R2, Mr.V.P.Raman, learned counsel appearing for R3, Mr.R.Vijayakumar, learned Additional Government Pleader appearing for R4.

2. Since the issue involved in these Writ Petitions are one and the same, these Writ Petitions are taken up together and a common order is being passed.

3. The petitioners all are Doctors, who have studied D.D.Physician Courses (Six year course) at Russian State Medical University from Russia. It is not in dispute that degree awarded by Russian State Medical University is M.D. Degree, but it is not a Post Graduate Degree but a Graduate degree, which is equivalent to MBBS degree. After completing the education in Russia, the petitioners have come to India and they have appeared for screening test conducted by the Medical Council of India. All of them have qualified in the screening test. Thereafter, they had registered as medical practitioners on the roll of the Tamilnadu State Medical Council. Accordingly, the petitioners being registered medical practitioners are entitled to practice medicine.

4. Now the problem arose in the light of communication sent by the 2nd respondent calling upon the petitioners to produce their original registration certificate for making an endorsement stating that the degrees obtained by them as equivalent to MBBS. Though the said endorsement may not affect the petitioners, because it is a fact that M.D. Degree, obtained by them from Russian Medical University is not a Post Graduate but a Graduate degree equivalent to MBBS. But what is more offending is the undertaking which is sought to be obtained by 2nd respondent from the petitioners and the letter refers to a resolution passed in the meeting of the Tamilnadu Medical Council held on 19.08.2014 to the effect:

"The council directed the Registrar to send a circular to all the M.D.(Physicians) Russian and other Foreign Universities stating that they should not use the M.D. After the name and they should surrender the original medical certificates for making endorsement as M.B.B.S (Russia, Philiphines, etc.,)"

5. In my view the undertaking sought to be obtained from the petitioners is un reasonable and arbitrary. It is not in dispute that the petitioners are registered medical practitioners on the rolls of the 2nd respondent. The petitioners are claiming that since they have cleared the screening test conducted by the 3rd respondent, the registration is valid. Further, it is not in dispute that the petitioners are entitled to apply for Post

Graduate Degree Course offered by the Institution approved by the Medical Council of India. Therefore, by producing certificate to make an endorsement only to the extent stating that it is equivalent to Indian MBBS will not in any manner prejudice the petitioners, since what is being endorsed is a fact however a further undertaking cannot be insisted upon.

6. Accordingly, the Writ Petitions are partly allowed and the petitioners are directed to produce their registration certificates before the 2nd respondent within a period of four weeks from the date of receipt of copy of the order only for the purpose of making endorsement that certificate is equivalent to Indian MBBS Course. The petitioners cannot be compelled to sign any undertaking. It is made clear that such endorsement shall be made in the certificate already issued to the petitioners and the question of issuing new certificate does not arise. The endorsement shall be duly authenticated by the officers of the Tamilnadu medical Council and returned to the petitioners within three days from the date on which the certificate is produced.

7. The learned counsel appearing for the 2nd respondent submitted that out of 1050 Doctors who have obtained M.D. Degree from Russian University, except petitioners, all of them have produced the certificate and an endorsements have been made, this submission is disputed by the learned counsel for the petitioner, however, this controversy need not be gone into, in the light of the above direction. Consequently connected miscellaneous petitions are closed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The President,
Tamilnadu Medical Council
New No.914, Old No.569,
Poonamallee High Road,
Arumbakkam, Chennai - 600 106

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2. The Registrar,
Tamilnadu Medical Council,
New No.914, Old No.569,
Poonamallee High Road,
Arunkakkam, Chennai - 600 106

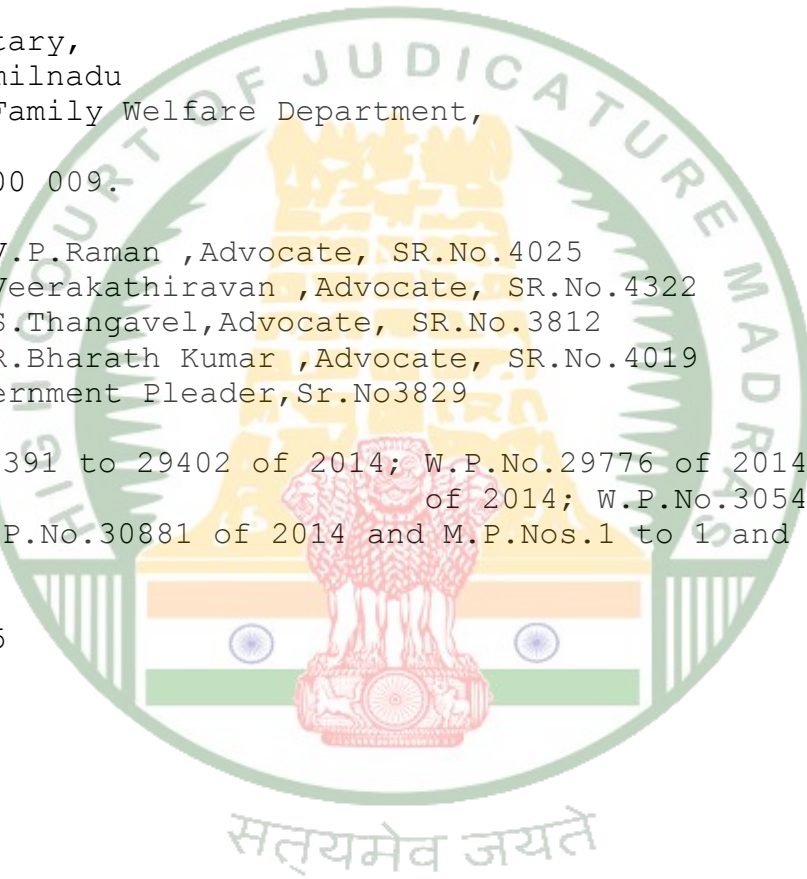
3.The Chairman,
The Medical Council of India
Pocket 14, Sector 8, Dwaraka Phase I
New Delhi - 110077

4.The Secretary,
State of Tamilnadu
Health and Family Welfare Department,
Secretariat,
Chennai - 600 009.

1 cc to Mr.V.P.Raman ,Advocate, SR.No.4025
1 cc to Mr.Veerakathiravan ,Advocate, SR.No.4322
1 cc to Mr.S.Thangavel,Advocate, SR.No.3812
1 cc to Mr.R.Bharath Kumar ,Advocate, SR.No.4019
1 cc to Government Pleader,Sr.No3829

W.P.Nos.29391 to 29402 of 2014; W.P.No.29776 of 2014; W.P.No.30301
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