

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 13.03.2015

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THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

WP.No.7153 of 2015 & MP.No.1/2015

Dr.P.J.Sanjeev

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Petitioner

Versus

1.The Secretary,  
Government of Tamil Nadu  
Health & Family Welfare Department  
Fort St. George, Chennai-9.

2.The Director of Public Health and Preventive  
Medicines, Chennai-6.

3.The Deputy Director of Health Service  
Erode.

4.The Dean  
Stanley Medical College,  
Chennai.

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Respondents

Writ petition filed under Article 226 of the Constitution of India praying for a writ of MANDAMUS directing the 4<sup>th</sup> respondent to admit the petitioner for his P.G.Course of M.S [General Surgery] without insisting the Original Certificates and consequently direct the 3<sup>rd</sup> respondent to hand over all the certificates either to the petitioner or to the 4<sup>th</sup> respondent.

For Petitioner : Mr.L.Chandrakumar for  
Mr.K.Sathishkumar

For Respondents: Mr.R.Vijayakumar, AGP

ORDER

Heard Mr.L.Chandrakumar, learned counsel for the petitioner and Mr.R.Vijayakumar, learned Additional Government Pleader appearing on behalf of the respondents and with their consent, the writ petition is disposed of at the admission stage itself.

2.The petitioner seeks for a direction upon the 4<sup>th</sup> respondent to admit the petitioner in P.G Course in M.S. [General Surgery] without insisting on the original certificates and to direct the 3<sup>rd</sup> respondent to hand over the same either to the petitioner or to the 4<sup>th</sup> respondent.

3.The petitioner after completing his M.B.B.S degree in the Government Medical College, Coimbatore, registered his name as a Medical Practitioner under the Rules of the Tamil Nadu Medical Council vide Registration No.97788 dated 05.06.2012. The petitioner was recruited as an Assistant Surgeon pursuant to an examination conducted by the Medical Recruitment Board and was issued an order of appointment dated 13.09.2013. As directed in the appointment order, the petitioner has submitted all the original certificates to the 3<sup>rd</sup> respondent, viz., the X standard Mark Statement, MBBS Convocation, Medical Registration Certificate, Community Certificate and the Physical Fitness Certificate. The petitioner applied for All India Entrance Examination held on 03.12.2014. The results were declared and the petitioner has secured overall rank of 1606 and communal rank in OBC as 435. Though the petitioner has joined the Government service, his application for the P.G.Course was under General category and he has secured the rank under the General Category. Now the petitioner is desirous of joining P.G Course and since his certificates are not returned to him, the petitioner has filed the present writ petition. The petitioner would state that even during the previous year, the certificates were returned to other doctors who were selected under the General category, though they were appointed to the Tamil Nadu Medical Service.

4.The issue involved in this writ petition is res integra and was considered by this Court in a batch of cases in WP.No.12923/2008 etc., batch on 12.12.2008. Among several issues, Issue No.4 which was considered by this Court was whether the respondents therein can deny the rights of P.G.Degree / Diploma Holders to apply for super specialty course, merely because they have not completed the bond period. While considering this issue, this Court held as follows:-

"27.Issue No.4: Insofar as the denial of permission to apply for super specialty course or higher studies by the petitioners before completion of the bond period, the petitioners are justified in contending that their right to pursue higher studies cannot be denied by the respondents merely because they have executed bonds. Right to pursue higher studies is to be treated as a human right and the same cannot be denied merely because the petitioners have executed a bond to serve for three years after completing their PG Degree/Diploma.

28. Thus, the respondents cannot deny the petitioners' right to apply for higher studies/super specialty courses under the guise of enforcing the bond conditions. The petitioners are entitled to appear for Entrance Examinations for super specialty course, which are conducted by the Government/any University/Deemed Universities and if they are selected, the respondents are bound to relieve the petitioners even if they are in temporary service as per the bond, after getting an Undertaking from the petitioners that they should serve the remaining period of bond, if not, it is well open to the respondents to collect the bond amount as mentioned in the bond with proportionate interest. On any account no PG Degree/Diploma Holder can be prevented by the respondents to pursue their higher studies and improve their knowledge of specialisation. Thus the said issue is answered against the respondents on the above terms.

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] The candidates admitted in the State Quota under the Non-Service category are bound by the terms of the bond executed by them pursuant to the prospectus Clause 68[d] and on completion of their course, they are bound to serve in Government Colleges/Hospitals according to the availability of posts for three years, failing which it is open to the respondents to recover the sum of Rs.2/Rs.3 lakhs as the case may be, as per the bond conditions.

[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 the certificates and the respondents are directed to return all the certificates of the petitioners within two weeks from the date of receipt of copy of this order.

[4]No PG Degree/Diploma Holder, who completed their course or joined in Government service temporarily as per the bond, shall be denied of opportunity of applying super specialty course and if they are selected, they should be permitted to undergo the course subject to the condition that remaining period of service shall be served in the Government Institutions by the concerned persons after the completion of their respective super specialty course. If not it is open to the respondents to recover the bond amount with proportionate interest.

[5]There will be no order as to costs.

[6]Connected MPs are closed."

5.In the light of the above direction issued by this Court which has been complied by the respondents and certificates have been released to the other persons, the petitioner is also entitled to be treated on par with those candidates who were the writ petitioners in the batch of cases.

6.In the result, the writ petition is disposed of directing the petitioner to join P.G.Course in the 4<sup>th</sup> respondent/College and the 3<sup>rd</sup> respondent is directed to forward directly all the Original Certificates of the petitioner to the 4<sup>th</sup> respondent with due intimation to the petitioner. The above direction to forward the certificates shall be complied with within a period of one week from the date of receipt of a copy of this order. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Asst.Registrar (CS III)

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Sub Asst. Registrar

AP

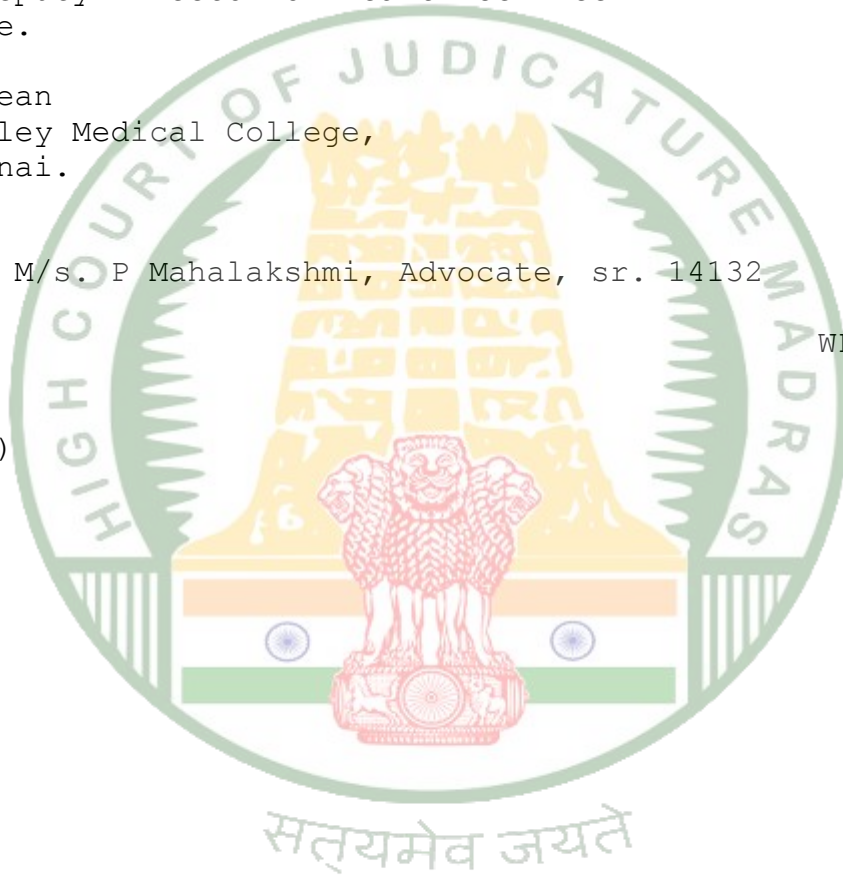
To

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1 cc to M/s. P Mahalakshmi, Advocate, sr. 14132

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