

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.02.2016

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.5090 of 2016

Angel Subramani,
W/o Elcid

.. Petitioner

Vs.

The President,
Tamil Nadu Medical Council,
Poonamallee High Road,
Arumbakkam, Chennai-600 106.

... Respondent

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus to direct the respondent to process the petitioner's application, dated 30.10.2015 submitted for enrolment and to issue certificate of permanent registration, so as to enable the petitioner to have privilege of employment in any one of the approved Medical College Hospital in the State of Tamil Nadu.

For Petitioner : Mr.D.Rajagopal
For Respondent : Mr.Veerakadiravan

ORDER

The petitioner has filed this Writ Petition praying for issuance of a Writ of Mandamus to direct the respondent to process the petitioner's application, dated 30.10.2015 submitted for enrolment and to issue certificate of permanent registration, so as to enable the petitioner to have privilege of employment in any one of the approved Medical College Hospital in the State of Tamil Nadu.

2. It is case of the petitioner as projected in the affidavit filed in support of the Writ Petition that she has completed Higher Secondary Course in 2002. On the basis of the Eligibility Certificate issued by the Medical Council of India, she joined Medical College at International University of Health Science in Saint Kitts, West Indies and completed M.B.B.S course in 2007. Thereafter, she passed the screening test conducted by the National Board of Examination on 15.05.2008 and subsequently, she applied before the Medical Council of India for provisional registration certificate, which was issued on 10.07.2008 for one year, i.e. upto 09.07.2009. Thereafter, on

18.11.2009, she applied before the Medical Council of India for permanent registration to foreign graduate along with relevant fees and provisional registration certificate. On 06.06.2015, the Medical Council of India directed the petitioner to approach the concerned State Medical Council for grant of permanent registration, in view of the order passed by the Division Bench of Kerala High Court in W.A.No.1981 of 2012. Thereafter, on 30.10.2015, she applied before the Medical Council of Tamil Nadu for grant of permanent registration certificate, which has not been processed. Hence, she could not undergo further education/job-employment in any one of the approved Medical College/Hospital. It is her further case that as per the Circular issued by the Medical Council of India, the State Medical Council has to process the application for grant of provisional/permanent registration certificate to all such candidates who have obtained their degrees from the said institution. In spite of several requests, the respondent-Tamil Nadu Medical Council did not process the application. Hence, the petitioner has filed this Writ Petition for the above said relief.

3. Heard both sides.

4. Learned counsel for the petitioner submitted that in an identical case, this Court in W.P.No.17500 of 2015, by order dated 26.06.2015, observed and directed as follows:

"3. The petitioner would further submit that some of the persons similarly placed had moved the Kerala High Court by filing W.P.(Civil) No.23676 of 2011 and vide order dated 01.10.2012, it was held that the petitioners therein were entitled for grant of provisional registration in the light of the judgment of the Hon'ble Supreme Court of India, reported in 2011 (11) SCC 748 (Medical Council of India Vs. J.Saai Prasanna and Others). As against the order passed by the Kerala High Court, Medical Council of India filed an appeal in W.A.No.1981 of 2012 and it was also dismissed on 29.08.2014 and thereafter, no further challenge has been made to the said order passed by the Division Bench of the Kerala High Court.

4. The Medical Council of India in turn issued a circular to the Registrar of all State Medical Councils in India dated 11.02.2015, permitting them to process the application for grant of provisional/permanent registration to all such candidates, who have obtained their degrees from the said institution. The grievance expressed by the petitioner is that in spite of very many orders, the respondent, is not issuing such a certificate and hence, came forward to file this writ petition.

5. The learned counsel for the petitioner has drawn the attention of this Court to the order dated

30.04.2015 passed in W.P.No.12107 of 2015 and would submit that in similar facts and circumstances, this Court has directed the Tamilnadu Medical Council to consider the representation of the petitioner therein to pass appropriate orders permitting him to enroll and grant certificate of provisional registration so as to enable the concerned petitioner to undergo CRRI Course in any one of the approved medical college / hospital in the State, subject to the fulfillment of conditions as decided by the Medical Council of India, from time to time and hence, the petitioner may also be conferred with similar benefits.

6. The Court heard the submissions of Mr.Veerakathiravan, learned standing counsel, who appears on behalf of the respondent.

7. It is not in serious dispute that in the light of the Division Bench Judgment of the Kerala High Court, Medical Council of India had issued circulars to the State Medical Councils to take appropriate steps in this regard and this Court in W.P.No.12107 of 2015 has also considered the similar issue and issued a positive direction to the respondent to consider the claim of the petitioner. In the light of the said factual aspects and legal provisions, there cannot be any impediment directing the respondent to do so.

8. In the result, the writ petition is disposed of by directing the respondent to consider the application dated 30.04.2015, submitted by the petitioner, for grant of provisional registration certificate and pass appropriate orders permitting the petitioner to enroll and grant certificate of provisional registration, so as to enable him to undergo CRRI Course in any one of the medical College/hospital in the State, subject to the fulfillment of conditions as decided by the Medical Council of India, from time to time. The respondent is directed to do the said exercise within a period of two weeks from the date of receipt of a copy of this order. The petitioner, on complying with the other conditions as per the Medical Council of India norms/regulations issued from time to time, is at liberty to move the respondent to consider her claim for permanent registration. No costs."

5. Following the above said order dated 26.06.2015 passed by this Court in W.P.No.17500 of 2015, this Writ Petition is disposed of, directing the respondent to consider the application, dated 30.10.2015, submitted by the petitioner,

for enrollment and issuance of certificate of permanent registration, so as to enable the petitioner to have the privilege of employment in any one of the approved Medical College Hospital in the State of Tamil Nadu, subject to the petitioner fulfilling the conditions/norms/regulations issued by the Medical Council of India from time to time. The respondent is further directed to do the said exercise within a period of two weeks from the date of receipt of a copy of this order. No costs.

cs

-s/d-

Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

Copy to

The President,
Tamil Nadu Medical Council,
Poonamallee High Road,
Arumbakkam, Chennai-600 106.

+ 1 cc to Mr.D.Rajagopal,Advocate, SR 12259

+ 1 cc to Mr.Veerakathiravan Advocate, SR 12975

gj(co)
prk1/3

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