



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.12.2016

CORAM:

**THE HONOURABLE MR.JUSTICE R.SUBBIAH
AND
THE HONOURABLE MRS.JUSTICE J.NISHA BANU**

**W.P. [MD].No.10680 of 2016
and
W.M.P. (MD) .No.8280 of 2016**

S.Elakkiya

.. Petitioner

Vs.

1.The Registrar,
Tamil Nadu Dr.M.G.R.Medical University,
No.69, Anna Salai, Guindy,
Chennai - 600 032.

2.The Dean,
The Government Theni Medical College,
Theni.

3.The Revenue Divisional Officer,
O/o.the Revenue Divisional Office,
Salem.

4.The Chairperson,
State Level Scrutiny Committee,
Secretariat, Fort St. George,
Chennai - 600 001.

.. Respondents

(R3 and R4 are impleaded as per the
order of this Court dated 19.09.2016
in W.M.P. (MD) .No.8477 of 2016)

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, to direct the respondents to issue the course completion and provisional certificates and other relevant certificates pertaining to the petitioner's MBBS Course pending the community certificate verification forthwith.

For Petitioner

: Mr.AR.L.Sundaresan,
Senior Counsel
for M/s.Babu Rangasamy Associates

For 1st respondent

: Mr.C.Karthik



For respondents 2 to 4 : Mr.N.S.Karthikeyan,
Addl. Government Pleader

O R D E R

WEB COPY [Order of the Court was made by **R.SUBBIAH, J.**]

The petitioner has come up with this Writ Petition seeking a direction to the respondents to issue the course completion, provisional and other relevant certificates pertaining to her MBBS Course, pending verification with regard to her community certificate.

2. The case of the petitioner is that she belongs to Kondareddy Community which is classified as a Scheduled Tribe community. She has been issued with the Kondareddy Community Certificate by the Revenue Divisional Officer, Salem, in the year 1996, based on which, she has got a seat in MBBS course for the academic year 2009-2010 in the Theni Government Medical College under Scheduled Tribes quota. Subsequently, she has completed the MBBS course during the academic year 2013-14 and the house surgency in the month of October, 2015. Even after completion of the course, she has not been issued with course completion certificate, provisional certificate and other relevant certificates by the respondents. When she enquired, it was reported that the community certificate submitted by her has been sent to the revenue authorities concerned for genuineness report. The grievance of the petitioner is that even after completion of one year, the certificates have not been issued. Hence, she has come with this Writ Petition for the aforesaid prayer.

3. When the matter was taken up for hearing today, the learned senior counsel for the petitioner submitted that the petitioner has got the certificate through proper channel and even assuming that the said certificate is a bogus one, as she has completed the MBBS course, it is for nobody's benefit to annul his practice. In support of his contention, he relied on the judgment of the Hon'ble Supreme Court in the case reported in **(2001) 1 SCC 4 (State of Maharashtra Vs. Milind and others)**, wherein the Hon'ble Apex Court has held in paragraph No.38 as follows;

"38.Respondent 1 joined the medical course for the year 1985-86. Almost 15 years have passed by now. We are told he has already completed the course and may be he is practising as a doctor. In this view and at this length of time it is for nobody's benefit to annul his admission. Huge amount is spent on each candidate for completion of medical course. No doubt, one Scheduled Tribe candidate was deprived of joining medical course by the admission given to the respondent 1. If any action is taken against the respondent 1, it may



lead to depriving the service of a doctor to the society on whom public money has already been spent. In these circumstances, this judgment shall not affect the degree obtained by him and his practising as a doctor. But, we make it clear that he cannot claim to belong to the Scheduled Tribe covered by the Scheduled Tribes Order. In other words, he cannot take advantage of the Scheduled Tribes Order any further or for any other constitutional purpose. Having regard to the passage of time, in the given circumstances, including interim orders passed by this Court in SLP(C).No.16372 of 1985 and other related matters, we make it clear that the admissions and appointments that have become final, shall remain unaffected by this judgment."

4. That apart, the learned senior counsel for the petitioner, by relying upon an unreported decision of a Division Bench of this Court in W.P.No.34817 of 2013, dated 20.12.2013, submitted that in an identical circumstances, the Division Bench of this Court, by considering the undertaking given by the writ petitioner therein to the effect that "he will not claim reservation based on the community certificate that he belongs to Scheduled Tribe community in future either for Government employment or for higher studies, till it is verified and found genuine", directed the respondents therein to issue certificates of the petitioner therein. Thus, the learned senior counsel for the petitioner submitted that even in the present case, the petitioner has given an undertaking in the affidavit filed in support of the petition itself that "in the event of her course completion, provisional and other relevant certificates pertaining to her MBBS Course being issued by the respondents herein, she will not join in the Government jobs until the genuineness of community status is finalised by the competent authorities". Thus, the learned senior counsel prays for the relief as sought for.

5. Per contra, the learned Additional Government Pleader appearing for the officials respondents by filing a detailed counter affidavit submitted that the second respondent issued a letter to the concerned District Collector for verification of the genuineness of the community certificate of the petitioner on 21.11.2014 and subsequently, a remainder was also sent to the District Collector and the concerned Revenue Divisional Officer, Salem on 25.06.2016. While so, the Revenue Divisional Officer, Salem, informed the 2nd respondent that there is no record to show that the said certificate has been issued by the Office on the said date. Therefore, the 2nd respondent lodged a complaint before the K.Vilakku Police Station, Theni District, in this regard and the course of litigation is pending. While so, the certificates sought for by the petitioner cannot be issued. Thus, he prays for dismissal of the writ petition.



6. Keeping the submissions made on either side, we have carefully gone through the entire materials available on record. The certificate in question is said to have been obtained in the year 1996 and only in the year 2014, the genuineness of the same has been doubted and now the investigation is pending over the same. Whatever may be the reason, as on date, the petitioner has completed the MBBS course. Depriving the service of a doctor to the society on whom public money has already been spent, stating that the investigation is pending, would not serve any purpose. Further the petitioner has also given an undertaking that "in the event of her course completion, provisional and other relevant certificates pertaining to the MBBS Course being issued by the respondents herein, she will not join in any Government jobs until the genuineness of community status is finalised by the competent authorities". The said undertaking is recorded. In view of the above, this Court is inclined to issue a direction to the respondents to issue the certificates of the petitioner.

7. In the result, this writ petition is disposed of with a direction to the first and second respondents to issue Course Completion, Provisional and other relevant certificates related to the medical course, except the community certificate, to the petitioner. However, it is made clear that the undertaking given by the petitioner in the affidavit would be strictly adhered to. It is also made clear that this order would not deter any authority to take appropriate action against the petitioner on merits and in accordance with law.

8. Since in the present case, it has been specifically stated that there is no record available to show that the community certificate has been issued to the petitioner herein, the third respondent is at liberty to conduct enquiry in this regard and in the course of enquiry, if he has come to the conclusion that no such certificate was issued by the Office, appropriate action can be taken as against the petitioner. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar(CO)

/True copy/

Sub Assistant Registrar

To

1. The Dean,
The Government Theni Medical College,
Theni.

2. The Revenue Divisional Officer,
O/o. the Revenue Divisional Office,
Salem.



3.The Chairperson,
State Level Scrutiny Committee,
Secretariat, Fort St. George,
Chennai - 600 001.

WEB COPY

+1 cc to M/s.S.Babu Rangasamy, Advocate in SR.No. 82748
+1 cc to M/s.C.Karthik, Advocate in SR.No. 82704

gcg

JS/BS/09.02.2017: 5P/6C

Order made in
W.P.[MD].No.10680 of 2016
Dated: 21.12.2016