

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.12.2017

CORAM

THE HONOURABLE MR.JUSTICE N. KIRUBAKARAN

W.P.No.17315 of 2017

and

WMP.Nos.18817 to 18819 of 2017

- 1.Dr.R.Vasanth
- 2.Dr.N.Sowmya
- 3.Dr.B.Kalaiivanan
- 4.Dr.C.Kavirajan
- 5.Dr.C.Sibarasu
- 6.Dr.D.Divya
- 7.Dr.V.K.Arul Kanmani
- 8.Dr.S.Gokulnath
- 9.Dr.R.Hareesh Kumar
- 10.Dr.A.Valliappan
- 11.Dr.M.N.Mrunalini
- 12.Dr.S.Brindha

... Petitioners

Vs.

- 1.The State of Tamil Nadu
Rep by its Principal Secretary to Government
Health and Family Welfare Department
Fort St George, Chennai - 600 009.
- 2.The Director of Medical Educational
Kilpauk, Chennai - 600 010.

3.The Dean
Madras Medical College
Chennai.

4.The Vice Principal
Madras Medical College
Chennai - 600 003.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, Calling for the records on the file of the 1st respondent in his proceedings in GO (MS) No.85 Health and Family Welfare (MCA-2) Department dt 23.3.2017 in so far as it treats the petitioners as non-stipendiary candidates is concerned and also on the file of the 2nd respondent in connection with the consequential orders passed by him in his proceedings in REF No. 131/ME 2/1/2016 dt 31.3.2017 and the orders on the file of the 4th respondent in Ref. No. 5215/ME1/2015 dt 26.5.2017 quash the same and to direct the respondents to pay stipend to the petitioners on par with other candidates those who had undergone CRR I Training in Madras Medical College Chennai and for a further direction to return the original certificates to the candidates without insisting for the repayment of part stipend amount which had been already been received by the petitioners.

For Petitioners : Mrs.R.Sangeeth

For Respondents : Mr.T.M.Pappiah [For R1 to R4]
Special Government Pleader
Mr.V.P.Raman [For R5]

ORDER

The petitioners, who originally joined DD Medical College, Thiruvallur district, were left in lurch, because Medical Council of India cancelled/withdrew the approval granted to the said college. The petitioners are medical students studying in Madras Medical College. They completed the course and they have to undergo CRRI training. For undergoing the training, the petitioners have not been given the monthly stipend which is used to be given to the other similarly placed students. Therefore, they have come before this Court challenging the G.O.(D).No.1258 [Health and Family Welfare Department] dated 20.11.2014, which denies the stipend to the petitioners.

2.Mrs.R.Sangeetha, learned counsel appearing for the petitioners very emphatically argued that the petitioner cannot be discriminated merely because they have been admitted in a private college and thereafter, they have been accommodated in the Government Medical College. In fact, after accommodation in the Madras Medical College they have become Government Medical College students and therefore, all the rights and benefits available to the regular medical students of Madras Medical College should be available to the petitioners. Therefore, the G.O.(D).No.1258 [Health and Family

Welfare Department] dated 20.11.2014 which denies the stipend to the petitioners has to be quashed.

3.To support her contention, the learned counsel for the petitioner would rely upon the judgment of this Court ***dated 16.07.2012*** made in ***W.P.No.5458 of 2012*** in the case of ***J.Denis Winston Vs. The Academic Officer, TN Dr.MGR Medical University and Ors.***, wherein, the question that fell for consideration was whether the foreign educated medical students have to be paid stipend or not? This Court held that the Foreign educated medical students are equally placed as that of the Indian Medical Students and therefore, all the benefits available to the Indian Medical Students should be available to the Foreign Medical Students while undergoing CRRRI as the Foreign Medical graduates are allowed to have CRRRI after clearing the examination conducted by the National Board of Examination to prove their knowledge and competence. Therefore, the said G.O. which prohibit stipend to foreign medical students was quashed.

4.The another judgment relied upon by the learned counsel for the petitioners is the case of ***Dr.Gaurav Sharma Murlidhar &***

Others Vs. National Board of Education & Ors. in Civil Writ Petition No.8190 of 2014 and CWP No.1566 of 2011, wherein the principle of equal pay for equal work has been insisted upon. By relying upon those judgments, Mrs.R.Sangeetha, learned counsel seeks relief for the petitioners.

5.Mr.T.M.Pappiah, learned Special Government Pleader would submit that the petitioners were accommodated as per the order of this Court from an unrecognized medical institution and at the time of permitting the petitioners to do CRRRI training, Rs.2 lakhs, which is required to be paid as fee by the petitioners have been exempted and therefore, the petitioners will not be entitled to the stipend.

6.Heard the parties and perused the records.

7.It may look as if the law is in favour of the petitioners. However, if we go indepth, it would reveal that the claim of the petitioners is unsustainable. Though the petitioners were originally admitted by a private medical college, subsequent to withdrawal of approval by Medical Council of India, only in view of the relief granted by this Court, the petitioners and 149 other students were

accommodated in various medical colleges in Tamil Nadu during the academic year 2010-2011, after getting appropriate permission from the Medical Council of India to increase the strength of the students. Therefore, it is clear that they are not directly admitted students by the Government, though they have now become Government Medical College students.

8. Mrs. R. Sangeetha, learned counsel for the petitioners rightly argued that the petitioners cannot be called as private medical college students as they were transferred to the Government Medical College from third year onwards and therefore, the stipend applicable to the CRRI should be made applicable to the petitioners. Though it sounds good, this Court already pointed out though they may be called as Government Medical College students, still they are the students who have been accommodated from Private Medical College. For accommodating the petitioners, infrastructures already available in the Medical Colleges have to be enhanced and in this regard, the Government is compelled to spend more money to give proper medical education and training to the petitioners. Therefore, unnecessary expenditure is thrust upon upon the Government. The expenses which the Government had already spent is more than the amount which is

being denied to the petitioners namely, stipend. Therefore, the claim that the petitioners are Government Medical College students cannot be completely accepted.

9.Hypothetically, if the petitioners had remained in the Private Medical College, the petitioners would have spent more than Rs.10 lakhs per year to get medical education. Whereas the fee fixed by the Government for admitting the students is just Rs.2,80,000/- per year, as per G.O. (D).No.1329, Health and Family Welfare (MCA2) Department, dated 09.12.2013, on par with the students admitted in self-financing medical college through Single Window System.

10.Whereas the petitioners have not been admitted through Single Window System and they have directly joined in the DD Medical College, the petitioners were largely benefited as they were admitted in the Government Medical Colleges and the petitioners were required to pay only Rs.2,80,000/- per year towards fees. The petitioners completed course in the year 2015 and they completed CRRi in the month of October 2016. The only grievance of the petitioners is that during CRRi period, the medical students have to be paid the stipend and the monthly stipend which is being given to the medical college

students was denied to the petitioners.

11. Though the petitioners are in a way called Government Medical College students, they have not lost the character of the students who have been accommodated from other private medical college as per order of this Court. If any private college medical students has to undergo CRR training in Government Medical College Hospital, the fee fixed by the Government through G.O.No.1258 [Health and Family Welfare Department] dated 20.11.2014 is Rs.2,00,000/-. The said G.O., is squarely applicable to the petitioners. The petitioners were already granted the benefits of paying the fee of Rs.2,80,000/- per year, which is far less than the fees usually fixed by the private medical college. Therefore, the payment of Rs.2 lakhs for undergoing CRR training is applicable to the petitioners. However, the Government has taken a lenient view in case of petitioners and they were exempted from payment of that amount vide G.O. (Ms).No.85, Health and Family Welfare (MCA-2) Department, dated 23.03.2017. In spite of reaping all the above benefits, the petitioners are now seeking stipend.

12. Once the benefit of exemption from payment of

Rs.2,00,000/- as per G.O. (Ms).No.85, Health and Family Welfare (MCA-2) Department, dated 23.03.2017, is given to the petitioners, the other conditions imposed by the very same G.O. that no stipend will be paid is also equally applicable. There is no question of selection of one limb of the G.O. which is beneficial to the petitioners and no application of other limb of the G.O. As stated above the petitioners have been exempted from payment of Rs.2,00,000/- only on condition that the petitioners would not be paid the stipend during CRR period. Having agreed to undergo CRR training with exemption from paying the fee of Rs.2,00,000/- the petitioners cannot be heard saying that they are entitled to monthly stipend on par with other Government Medical College students.

13. Even at the time of admission into the medical college, an affidavit has been obtained from the petitioners stating that those students who are found to be ineligible for admission to the MBBS course as per the regulations covering MBBS course, they shall be discharged from the college. Further, they also undertook to abide by the Medical Council of India Rules and Regulations of the Tamilnadu Government as well as Tamilnadu Dr.M.G.R. Medical University.

14.Paragraph no.10 of the counter affidavit is usefully extracted hereunder:-

"10.It is further submitted that at the time of their joining in the relocated colleges during 2013-2014, the students have submitted an affidavit stating as follows:-

"7.(i). If the Medical Council of India found that I am ineligible for admission to the MBBS course as per the regulations covering MBBS course, I shall be discharged from the allotted college.

(ii) I undertake to pay the fees prescribed by the Government of Tamilnadu to be decided based on the recommendation of the fee fixation committee for continuing the MBBS course in the allotted Medical College.

(iii) I undertake to abide by the acts of Medical Council of India, condition of Government of Tamil Nau and the Rules and Regulations of the Tamil Nadu Dr.M.G.R. Medical University."

15.Having given an undertaking that they would be bound by the rules and regulations, the petitioners cannot now wriggle out of the same. More over, the petitioners themselves had admitted in their affidavit that if the Medical Council of India rules is strictly followed, the petitioners would not be eligible for getting into medical college

itself.

16. Therefore in spite of being ineligible to get into a medical college, the Government had very generously accommodated the petitioners in the Government Medical College and that generosity should not be taken as an advantage. Thus, the claim of stipend is not sustainable in law as well as on equity.

In view of the above stated position, the writ petition fails and the same is dismissed. No costs. Consequently connected miscellaneous petitions are closed.

06.12.2017

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Index : Yes/No

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N.KIRUBAKARAN, J.

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To

- 1.The Principal Secretary to Government
Health and Family Welfare Department
Fort St George, Chennai - 600 009.
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Kilpauk, Chennai - 600 010.
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