

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 30.07.2018
CORAM:
THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN
W.P.No.19357 of 2018
and
W.M.P.No.22759 of 2018

Dr.Sujith M.Jose

.. Petitioner

Vs.

1. Medical Council of India,
Rep. by Secretary,
Pocket-14, Sector-8, Dwaraka Phase-I,
New Delhi-110 077.
2. The Director,
The Directorate of Medical Education,
Kilpauk, Chennai.
3. The Dean (Principal),
Coimbatore Medical College Hospital,
Coimbatore.
4. The Vice Principal,
Coimbatore Medical College,
Coimbatore.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus to direct the second and third respondents to issue the petitioner's original certificates that the petitioner had submitted before the second and third respondents at the time of admission.

For petitioner : Mr.K.S.Karthik Raja

For respondents : Mr.V.P.Raman for R-1

Mrs.V.Annalakshmi, Govt. Advocate for RR-2 to 4

ORDER

The petitioner has come forward with the above Writ Petition praying for issuance of a Writ of Mandamus to direct the second and third respondents to issue the petitioner's original certificates that the petitioner had submitted before the second and third respondents at the time of admission.

2. In a similar matter, this Court, by order dated 21.04.2015 in W.P.No.11796 of 2015, observed as follows:

"5. The learned counsel appearing for

the petitioner, has drawn the attention of this Court to the order dated 16.04.2015, made in W.P.No.11187 of 2015, and would submit that in similar facts and circumstances, this Court has granted the relief to the petitioner therein and hence, prays for appropriate orders.

6. The Court heard the submissions of Mr.V.Subbiah, learned Special Government Pleader, who accepted notice for the respondents, also.

7. This Court, in the above cited order, has taken into consideration the earlier order dated 13.03.2015, made in W.P.No.7153 of 2015 and M.P.No.1 of 2015 as well as the order dated 12.12.2008, made in W.P.No.12923 of 2008 etc. batch and it is relevant to extract paragraph No.30 of the order dated 12.12.2008, as under:

"30. In fine, all the writ petitions are disposed of on the following terms:-

(1) The P.G. 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 speciality 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 speciality course. If not it is open to the respondents to recover the bond amount with proportionate interest."

8. As per Clause (4) of the above cited order, the petitioner is entitled to get back the original certificates/testimonials collected by the fourth respondent at the time of her joining the service as per the recruitment done by them.

9. In the result, the writ petition is disposed of and the fourth respondent is directed to return the original certificates/testimonials collected from the petitioner at the time of her joining the service as Assistant Surgeon at Primary Health Centre, Melolakkur Vallam Block, Villupuram District, forthwith. The fourth respondent is also directed to take a decision on the letter of resignation dated 20.04.2015, submitted by the petitioner, as expeditiously as possible. No costs. Consequently, connected miscellaneous petition is closed."

3. In the case on hand, the petitioner has filed an undertaking affidavit, dated 29.07.2018 stating as follows:

"2. I submit that I have secured 78th position in the All India Ranking in the

Super Specialty Specific Rank list. The counselling admission is held to be on 01.08.2018. If I am not able to produce the original certificates in the Super Specialty Medical Counselling to be held on 01.08.2018, my entire dream will be scattered. It is not my intention to get the original certificate and to fly away from the bond period but it is only for the purpose of producing the same for my super specialty course.

3. On return of my original certificates I undertake to abide by any condition imposed or action initiated by the respondents."

4. From the above undertaking affidavit, it is clear that on return of the petitioner's original certificates, the petitioner has undertaken to abide by any condition imposed or action initiated by the respondents.

5. This Court makes it clear that in view of the above undertaking given by the petitioner, the respondents 2 and 3 are directed to return the original certificates of the petitioner and the petitioner, after completion of the course, shall come and serve as per the bond. If the petitioner fails to do that, apart from the respondents recovering the bond amount with interest, the qualification obtained pursuant to the return of the original certificates, will become nullity and that the specialty course cannot be used for any purpose including practice.

6. With the above observations, the Writ Petition is disposed of. No costs. Consequently, W.M.P. is closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

1. Medical Council of India,
Rep. by Secretary,
Pocket-14, Sector-8, Dwaraka Phase-I,
New Delhi-110 077.

2. The Director,
The Directorate of Medical Education,
Kilpauk, Chennai.
3. The Dean (Principal),
Coimbatore Medical College Hospital,
Coimbatore.
4. The Vice Principal,
Coimbatore Medical College,
Coimbatore.

+1cc to Mr.K.S.Karthik Raja, Advocate, S.R.No.51545

+1cc to Mr.V.P.Raman, Advocate, S.R.No.51219

+1cc to the Government Pleader, S.R.No.51845

W.P.No.19357 of 2018

GSP(01/08/2018)



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