



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED :26.03.2019

CORAM :

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

WP(MD)Nos.18249 to 18251 & 18504 of 2018

and

WMP(MD)Nos.16153 to 16155 & 16405 of 2018

J.Christeena Indrani ... Petitioner in WP(MD)No.18249/2018
M.Vivek ... Petitioner in WP(MD)No.18250/2018
K.Priyadharshini ... Petitioner in WP(MD)No.18251/2018
S.Kadhirvel ... Petitioner in WP(MD)No.18504/2018
Vs.

1.The Director of Medical Education,
Kilpauk, Chennai - 600 010.

2.The Director of Public Health and
Preventive Medicine, College Road,
Chennai - 600 006.

3.The Dean, Madurai Medical College,
Madurai - 625 020,
Madurai District.

... Respondents in all petitions

Prayer in WP(MD)No.18249 of 2018 : This Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 3rd respondent Dean, Madurai Medical College to issue the Transfer Certificate and Conduct Certificate to the petitioner and to return her all original nine certificates submitted by the petitioner at the time of admission to the 3rd respondent college.

Prayer in WP(MD)No.18250 of 2018 : This Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 3rd respondent Dean, Madurai Medical College to issue the Transfer Certificate and Conduct Certificate to the petitioner and to return his all original seven certificates submitted by the petitioner at the time of admission to the 3rd respondent college.

Prayer in WP(MD)No.18251 of 2018 : This Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 3rd respondent Dean, Madurai Medical College to issue the Transfer Certificate and Conduct Certificate to the petitioner and to return her all original seven certificates submitted by the petitioner at the time of admission to the 3rd respondent college.



Prayer in WP(MD)No.18504 of 2018 : This Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 3rd respondent Dean, Madurai Medical College to issue the Transfer Certificate and Conduct Certificate to the petitioner and to return his all original seven certificates submitted by the petitioner at the time of admission to the 3rd respondent college.

In all cases :

For petitioner : Mr. T.Cibi Chakraborty
For Respondents : Mr.M.Karuppasamy,
Government Advocate

COMMON ORDER

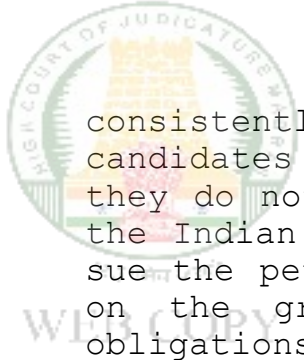
Heard the learned counsel on either side.

2.The petitioners in WP(MD)Nos.18249 & 18250 of 2018 successfully underwent the three year M.S (General Surgery) degree course in the third respondent college. The petitioner in WP(MD) No.18251 of 2018 successfully underwent the three year M.D (Anaesthesiology) degree course in the third respondent college and the petitioner in WP(MD)No.18504 of 2018 successfully underwent the three year M.D (General Medicine) degree course in the third respondent college. Even though they had completed their P.G degree courses, their certificates are yet to be issued.

3.The learned Government Advocate appearing for the respondents submitted that at the time of joining P.G degree courses, the writ petitioners herein executed an agreement bond in favour of the third respondent college undertaking to serve the government for a certain period on successful completion of the course in question. It has been further agreed that if they are unable to discharge the bond obligation, they would pay certain amount as bond amount. He drew my attention to the relevant extract in the prospectus. It reads as under :

"All Service Candidates of Tamil Nadu having more than five years of service after passing the P.G Degree/Diploma shall execute a bond for a sum of Rs.20,00,000/- (Rupees Twenty Lakhs Only) for Diploma courses and Rs.40,00,000/- (Rupees Forty Lakhs Only) for Degree and 6 years M.Ch.(Neurosurgery) Courses as security amount with the undertaking that they will serve the Government of Tamil Nadu till Superannuation with three sureties. Two sureties should be permanent Government servants in the same or higher rank than the candidate. One surety should be the spouse/parent of the candidate. PAN numbers of the sureties should be furnished. The prescribed form will be available in the colleges at the time of admission. The bond will become infructuous if the service candidates serve the Government of Tamil Nadu after the completion of the Course until superannuation."

4.In these cases, the petitioners herein are not willing to serve the government as undertaken. That is the only reason for non issuance of the petition mentioned certificates. It has been



consistently held that the educational certificates of the candidates cannot be retained for whatever reason. This is because they do not constitute marketable items in terms of Section 171 of the Indian Contract Act. It is always open to the respondents to sue the petitioners herein for recovery of the bond amount. But, on the ground that the petitioners have not fulfilled their obligations in terms of the agreement bond, their certificates cannot be withheld.

5. Granting liberty to the respondents to sue the petitioners in the manner known to law, the respondents are directed to hand over the petition mentioned certificates to the petitioners within a period of three weeks from the date of receipt of a copy of this order.

6. These writ petitions stand allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar(CS-III)

To

1. The Director of Medical Education, Kilpauk, Chennai - 600 010.

2. The Director of Public Health and
Preventive Medicine, College Road, Chennai - 600 006.

3. The Dean, Madurai Medical College,
Madurai - 625 020, Madurai District.

+1cc to Mr.T.CIBI Chakraborty, Advocate, SR.No.56775

+1cc to Mr.A.Aishwarya Sandaleena, Advocate, SR.No.56776

+1cc to Special Government Pleader, SR.No.57116 & 57147

WP(MD) Nos.18249 to 18251 &
18504 of 2018
26.03.2019

SP/27.03.2019/ 3P/7C