

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED : 18.07.2019****CORAM:****THE HON'BLE MR.JUSTICE R.SURESH KUMAR****CONT.P(MD)Nos.722 & 723 of 2018****in WMP(MD)Nos.9278,9279 & 8535/2018 in WP(MD)Nos.10235 & 9235 /2018**

Dr.A.Priya Aarthy

... Petitioner/Petitioner
in W.P.(MD) No.10235/2018

Dr.V.Monica

... Petitioner/Petitioner
in W.P.(MD) No.9235/2018

Vs.

- 1) Dr.G.Selvarajan,
Secretary,
Selection Committee,
Directorate of Medical Education,
No.162, Periyar E.V.R. High Road,
Kilpauk, Chennai 600 010
- 2) Dr.J.Radhakrishnan, I.A.S.
Secretary,
Health and Family Welfare Department,
Government of Tamil Nadu,
Fort St.George,
Chennai 600 009
- 3) Dr.A.Edwin Joe,
Director of Medical Education,
Directorate of Medical Education,
Government of Tamil Nadu,
No.162, Periyar E.V.R.High Road,
Kilpauk, Chennai 600 010

... Respondents/
Respondents 3 to 5

PRAYER in Cont.P(MD) No.722 of 2018: Contempt Petition filed under Section 11 of the Contempt of Courts Act, against the respondents for wilful and contumacious disobedience of direction passed by this Court in the order made in W.M.P.(MD) No.9278 & 9279 of 2018 in W.P.(MD) No.10235 of 2018 dated 28.04.2018 and prosecute and punish the respondents for the contempt of Court for flouting the above said order.

PRAYER in Cont.P(MD) No.723 of 2018: Contempt Petition filed under Section 11 of the Contempt of Courts Act, against the respondents for wilful and contumacious disobedience of direction passed by this Court in the order made in W.M.P.(MD) No.8535 of 2018 in W.P.(MD) No.9235 of 2018 dated 24.04.2018 and prosecute and punish the respondents for the contempt of Court for flouting the above said order.

Prayer in WMP(MD)Nos.9278 & 8535 of 2018

Writ Miscellaneous Petitions is filed under Article 226 of the Constitution of India, praying this Court to grant an order of interim direction directing the respondents to include the petitioners name in the Tamil Nadu State Rank list for 50% of State Quota for the admission to the Post Graduate Medical Courses for the Academic Year, 2018-19 in order to enable the petitioner to participate in the state counselling pending disposal of the above writ petition.

Prayer in WMP(MD)No.9279 of 2018

Writ Miscellaneous petition is filed under Article 226 of the Constitution of India, praying this Court to grant an order of interim direction directing the respondents to permit the petitioner to participate in the State counselling if the petition in otherwise eligible without insisting for production of the original certificates of the petitioner in the Tamil Nadu State counselling for 50% of State Quota for the admission to the Post Graduate Medical Courses of the Academic year 2018-2019 pending disposal of the above WP.

Prayer in WP(MD)No.10235 and 9235 of 2018

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a writ of Mandamus directing the respondents No.1 to 5 to permit the petitioner to participate in the state counselling for admission to Post Graduate Medical Courses for the academic year 2018-19 under 50% state quota, to permit to select a course of the petitioners choice as per state reservation quota .

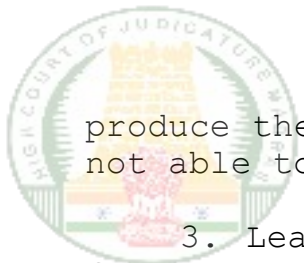
In both the Contempt Petitions:

For Petitioners	: Mr.R.R.Kannan
For Respondents	: Mr.M.Murugan,
	Government Advocate

C O M M O N O R D E R

These two contempt petitions have been filed for the alleged disobedience of the interim orders of this Court made W.M.P.(MD) Nos.9278 & 9279 of 2018 in W.P.(MD) No.10235 of 2018 dated 28.04.2018 and W.M.P.(MD) No.8535 of 2018 in W.P.(MD) No.9235 of 2018 dated 24.04.2018.

2. According to the learned counsel appearing for the petitioners, despite the interim orders passed by this Court, as stated above in the aforesaid two writ petitions, directing the respondents to permit the petitioners to participate in the counselling as per merits of the candidates, though the petitioners were permitted to participate in the counselling held on 20.05.2018 and though they got eligible marks as per the list of merit/ ranking to get seats to Post Graduate Medical courses for the Academic year 2018-2019, they were not permitted to select the seats on the ground that, one of the petitioner joined in the Medical College of Rajasthan as per the All India quota, therefore, she was not able to



produce the certificates in original and another one petitioner also not able to produce the certificate in original.

3. Learned counsel would further submit that, since the reason for not producing the original certificates is genuine, so far as the petitioners are concerned, the respondents ought to have permitted the petitioners not only to participate in the counselling but also to select the seats according to their choice based on their ranking. Since such permission was not given to the petitioners to select the seats as per their ranking, it is submitted that, it is the wilful disobedience of the orders of this Court. Therefore, appropriate contempt proceedings can be initiated against the respondents, the learned counsel submitted.

4. I have heard Mr.M.Murugan, learned Government Advocate, appearing for the respondents.

5. In both the cases, separate counter affidavits have been filed by the respondents and for the sake of disposal of these contempt petitions, the averments contained in the counter affidavit filed in Cont.P.(MD) No.722 of 2018 is taken into record. In the said counter affidavit, the respondents have explained the reasons why the State counselling was held on 17.05.2018 for the Academic Year 2018-19. According to them, there has been litigations, which were pending before this Court (i.e.) when an order was passed in W.P.(MD)No.12048 of 2018 dated 10.05.2018 and thereafter, an order was passed in W.A.(MD) No.1051 of 2018 on 17.05.2018. Only after these orders were passed, the respondents were able to upload the merit list of State quota / State counselling in the official website and it was published on 18.05.2018. Therefore, the next date (i.e.) on 19.05.2018 counselling was conducted for special category candidates and on 20.05.2018, counselling for general category was commenced and as per the call letter, the petitioners were supposed to appear on 20.05.2018 and to produce the certificates, as directed by this Court.

6. In this regard, the learned Government Advocate relied upon paragraph nos.8 &9 of the counter affidavit, which reads thus:-

"8. It is submitted that while dismissing a batch of writ petitions with prayer to permit the candidates who have been holding All India quota seats after second phase of counselling in State counselling, in the order of Hon'ble High court of Madras in W.P.No.12048 of 2018 and others, dated 10.05.2018, it has been stated that

'...22. No such instances are now brought to the notice of this Court in view of the fact that State ranking list is yet to be published. Publication of State ranking list is kept in abeyance on account of the order passed by this Court in a writ petition. The State preferred a writ appeal and the same is pending for



adjudication. Thus, at the point of time, there is no point in blaming the respondents for not releasing the State ranking list for filling up the seats under the State Quota.

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29. In the instant writ petitions, the State is not responsible for non publication of State merit rank list to fill up the State Quota. The delay is on account of the pendency of the litigations before this Court. Thus, in all means, the State should ensure that the merit ranking list is published without any further delay by obtaining necessary orders from the Courts and at the time of filling up the seats for P.G. Medical Courses, the authorities competent are bound to follow the Regulations and the instructions provided in the prospectus.

30, This being the factum of the case, this Court is of an undoubted opinion that the writ petitioners have not established any legal right, so as to consider the reliefs, as such, sought for in this batch of writ petitions. The grounds raised in respect of the choice of the students are also untenable.

31. Accordingly, all these writ petitions stand dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are also dismissed.

9. It is submitted that consequent to the order in W.A.No.1051 of 2018, dated 17.05.2018 by Hon'ble High Court of Madras, the merit list was published on 17.05.2018 in the official web sites www.tnhealth.org and www.tnmedicalselection.org".

7. Learned counsel also relied upon paragraph no.11 of the counter, which reads thus:-

"11. With reference to the averment made in paragraph nos.4 to 9, it is submitted that based on the interim direction of Hon'ble Madurai Bench of Madras High Court in W.P.(MD) No.10235 of 2018, petitioner was allowed and participated in State counselling. Moreover, the petitioner Dr.Priya Aarthy had got admission M.D(Obst & Gynae)/ M.S.(Obstetrics and Gynaecology) course in Rabindra Nath Tagore Medical College, Udaipur under second round of All India Quota Counselling conducted by Medical Counselling Committee, Director General of Health Services. Therefore, the petitioner is not eligible to allot a seat under State Quota Counselling vide



instructions issued from Director General of Health Services based on direction of Honourable Supreme Court of India W.P.(c) No.267 of 2017 filed by Dar-Us-slam & Ors Vs Medical Council of India & Ors mentioned in paragraph 6."

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8. By relying upon these averments, the learned Government Advocate would submit that, the petitioners not produced the original certificates, which is one of the condition imposed under instructions to candidates that, they should produce all original certificates at the time of counselling, otherwise, their candidature would not be considered or will be summarily rejected. They have not produced the certificates, and thereafter, pursuant to the orders passed by this Court, they were permitted to participate in the counseling. Despite the fact that, they have taken seats, after participating in All India counseling, they were permitted to take the seats and selection could not be given to them because of want of original certificates.

9. However, Mr.R.R.Kannan, learned counsel appearing for the petitioners, would submit that, since the state counseling during the last year 2018-19 started belatedly and there is no time gap between the All India counseling and the State counseling, since one of the petitioner got admission in a Medical College at Rajasthan through All India quota, where all original certificates of her were produced and there was no time to get back those certificates and produce the same before the counseling authorities on 20.05.2018.

10. Like that, another candidate also because of such reasons, her documents could not be produced. The non-production of certificates in original cannot stand in the way for getting admission for meritorious students and that is the condition imposed by this Court, while passing the interim orders in the writ petitions and the said orders, since have not been adhered to or followed by the respondents, certainly, it can be considered that, they have committed contempt.

11. I have considered the submissions made on both sides and have perused the materials placed before this Court including the counter affidavits of the respondents.

12. Admittedly, these two candidates, as per their ranking have got merits to be considered for selecting seats in P.G. Medical course during the counselling, which commenced on 20.05.2018 and as per the scheduled time at 11:00a.m. on 20.05.2018, both the candidates were directed to appear with all their original certificates and this communication was infact issued subsequent to the interim order passed by this Court.

13. However, the petitioners, though participated in the counseling, were not able to produce the original certificates, as



required, which is one of the condition for permitting the candidates to select the seats according to their own wish based on their rank, in this regard, the concept is very clear that, the original certificates must be produced by the candidates to select the seats.

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14. The reason attributed by the petitioner that there has been no time gap between the All India counseling and the State Counseling cannot be accepted, because, when the admission to medical courses are being conducted as per the method, which has been time and again sort out by the concerned authorities, of course, on the basis of the various orders passed by the law courts including the Hon'ble Supreme Court of India, no one can find fault with the said system being adopted for admission to P.G. medical courses.

15. While that being so, as per the calendar, the All India counseling has been fixed and thereafter, since there had been lot of litigations last year, the State Authority after clearing all the litigations, the very same day (i.e.) on 17.05.2018, when the order was passed in the Writ Appellate Court, ranking list was issued and after publication of the same on 18.05.2018, from the next day onwards, counseling commenced. Therefore, the said reason cited by the learned counsel for the petitioners attributing the reason on the part of the respondents in conducting the State counseling without any time gap enabling the candidates, who got admission through the All India quota, who have submitted their certificates before the authorities to get back and produce the same, cannot be accepted.

16. Moreover, it is submitted by the learned counsel appearing for the petitioners that, both the petitioners have got seats in P.G. Medical course and one candidate got admission in a Medical college at Rajasthan and another candidate has got seat in Tamil Nadu and are pursuing their course.

17. Moreover, after having gone through the materials, this Court is of the view, that the orders passed by this Court have not been violated or there has been any willful disobedience on the part of the respondents pursuant to the orders passed by this Court. Hence, this Court is of the considered view that, there can be no contempt proceedings initiated against the respondents. In the result, the present Contempt Petitions cannot be proceeded further against the respondents. Accordingly, the Contempt Petitions are closed.

Sd/-

Assistant Registrar (CS-II)

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To

1) Dr.G.Selvarajan,

Secretary,

Selection Committee,

Directorate of Medical Education,

No.162, Periyar E.V.R. High Road,

Kilpauk, Chennai 600 010

2) Dr.J.Radhakrishnan, I.A.S.

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Director of Medical Education,

Directorate of Medical Education,

Government of Tamil Nadu,

No.162, Periyar E.V.R.High Road,

Kilpauk, Chennai 600 010

+1cc to the Special Government Pleader, Sr.No.76308

+2cc to Mr.R.R.Kannan, Advocate, Sr.No.76272 & 73

Common Order made in

CONT. P (MD) Nos. 722 &**723 of 2018**

Dated:18.07.2019

sma/02/01/2020/7p/7c