IN THE HIGH COURT OF KARNATAKA, BENGALURU

DATED THIS THE 17TH DAY OF DECEMBER, 2020

PRESENT

THE HON'BLE MRS. JUSTICE B.V.NAGARATHNA

AND

THE HON'BLE MR. JUSTICE NATARAJ RANGASWAMY

WRIT APPEAL No.559/2020 (EDN-RES)

BETWEEN:

1. DR. SHILPA SINHA
AGED 30 YEARS
D/O. MR. A.K.SINHA
124/D PATLIPUTRA COLONY,
PATNA, BIHAR – 800 013.

2. DR. AMIT MAGADUM
AGED 33 YEARS
S/O. ANNASAB MAGADUM,
NO.621A , NASALAPUR, RAIBAG,
BELAGAVI – 591 213.

3. DR. BHAGAVATULA LEKHA
AGED 28 YEARS
D/O. B. NAGESWARA RAO,
4-3-388-5 PEDDA KONDAPPA COLONY,
PULIVENDULA,
ANDHRA PRADESH – 516 390.

4. DR. BASAVARAJ MAHALINGAPPA MUNDAGANUR
AGED 30 YEARS,
S/O. MAHALINGAPPA MUNDAGANUR,
DR. M.G. MUNDAGANUR,
A/P PARAMANANDAWADI,
RAIBAG TALUK, BELAGAVI – 591 311.

5. DR. GUNASHREE .K.N
AGED 29 YEARS
D/O. NARASINGARAJU .K.M
NO.186, 5TH CROSS,
KITTUR CHANNAMMA LAYOUT,
NEWTOWN, BHADRAVATHI,
KARNATAKA – 577 301.

6. DR. PRATIBHA SAJJANAR
AGED 28 YEARS
D/O. MALLIKARJUN SAJJANAR,
HOUSE NO.8-9-651 MAHALAXMI COLONY,
BEHIND OLD BUS STAND,
BIDAR – 585 401.

7. DR. DIVYA .C
AGED 27 YEARS
D/O. CHANDRAMOULI,
ADDRESS TUMAKURU,
KARNATAKA – 572 101.

8. DR. POOJA B PATIL
AGED 28 YEARS
D/O. BHEEMANAGOUDA PATIL,
POOJA NIVAS,
NEAR KASHI VISHWANATHA TEMPLE,
VIVEKANAND NAGAR,
GADAG – 582 101.

9. DR. SREERAG GANGADHARAN .K
AGED 28 YEARS
S/O. GANGADHARAN .K
MEGHARAGAM, HANUMARAMBALAM,
CHERUTHAZHAM, KANNUR,
KERALA – 670 501.

10. DR. SHREYAS .K
AGED 27 YEARS
S/O. K.B. NAMBIAR
SHREYAS, 6TH CROSS
SEVANAGAR, SALMAR,
KARKALA – 574 104.

11. DR. DHORDE VISHAKHA SHANTANU
AGED 26 YEARS
D/O. DHORDE SHANTANU SOPAN
NEW DHARANGAON ROAD,
KOPARGAON, DISTRICT: AHMEDNAGAR,
MAHARASHTRA – 423 601.

12. DR. THUSHAR .P.P
AGED 27 YEARS
S/O. ARAVINDAN .M.P
THUSHARAM CHEPPANOOL,
MUYYAM PO KURUMATHOOR,
KANNUR, KERALA – 670 142.

13. DR. JAIN AVI VINOD
AGED 26 YEARS
S/O. VINOD JAIN
RAIL TOLI, SHIVAJI WARD,
GONDIA, MAHARASHTRA – 441 601.

14. DR. MOINUDDIN ADIL MULLA
AGED 28 YEARS
S/O. ABBAS ALI
01, NEAR BARAKAMAN
BIJAPUR, KARNATAKA.

15. DR. ANKITHA GUNDMI
AGED 27 YEARS
D/O. G. RATHNAKARA,
1-143, SAMSKRITHI,
MOODAHADU YADABETTU,
SASTHAN, UDUPI – 576 226.

16. DR. KRITHI .S
AGED 27 YEARS
D/O. SHAM BADHYA .T
"AASHIK", PANIYADI KUNJIBETTU P.O.
UDUPI – 576 102.

17. DR. HANNAN SHEIK KABIR
AGED 27 YEARS
S/O. SHEIK RAZZAK KABIR ALI AGE
AHMED MANZIL, KABETTU,
KARKALA, UDUPI DISTRICT,
KARNATAKA – 574 104.

18. DR. TOTA MEGHANA
AGED 27 YEARS
D/O. T. PRADEEP KUMAR SWAMY
T8, GF-B, PURI AANAND VILAS,
SECTOR 81, FARIDABAD,
HARYANA – 121 004.

19. DR. SHRAWAN KUMAR
AGED 29 YEARS
S/O. OM PRAKASH BARANWAL
JANKI KUNJ, BESIDE DAILY SHOP,
MAIN ROAD, BHANDARIDIH,
GIRIDIH, JHARKHAND – 815 301.

20. DR. AISHWARYA .B.R
AGED 28 YEARS
D/O. RAJASHEKARIAH .B.S
NO.74, KALLUGOPANAHALLI, BIDADI,

RAMANAGARA DISTRICT – 562 109.

21. DR. PRATEEK AGARWAL
AGED ABOUT 30 YEARS
S/O. RAJESH KUMAR AGARWAL
R/O. 26, 8TH CROSS, RD LAYOUT
ADUGODI, BENGALURU – 560 030.

22. DR. KALIGOTLA DEEPIKA
AGED 30 YEARS
D/O. DR. K.V.A. GANGADHAR RAO
D303, ABODH VALMARK APTS HBCS LAYOUT
ARABIC COLLEGE POST,
VEERANNAPALYA MAIN ROAD,
HEBBAL, BANGALORE – 560 045.

23. DR. M.D. FAHEEM
AGED 32 YEARS
S/O. M.D. YOUNUS,
HOUSE NO.6-384,
KHUNIALAWA MOMINPURA
KALABURAGI – 585 104.

24. DR. MAYANK KUMAR GOTHI
AGED 30 YEARS
S/O. RAMPRASAD GOTHI,
NO.10, VILLAGE TOBRIKEDA TH TARANA
UJJAIN DISTRICT
MADHYA PRADESH – 456 665

25. DR. SAHANA RAMESH
AGED ABOUT 30 YEARS
D/O. RAMESH .L.T
R/o. NO.1194 (4127) 1ST FLOOR
26TH MAIN ROAD, 9TH BLOCK,
JAYANAGAR, BENGALURU – 560 069.

26. DR. SACHINDEV .U.D
AGED 31 YEARS
S/o. LATE DIVAKARAN .C
NANDANAMA HOUSE,
KOTHAMANGALAM
KOYILANDY P.O., KOZHIKODE,
KERALA – 673 305.

27. DR. MADHURI .N
AGED ABOUT 27 YEARS
D/O. M.S. NARAHARI
#56 G2 3RD CROSS RAMARAO LAYOUT
KATHRIGUPPE MAIN ROAD,

BANASHANKARI 3RD STAGE,
BANGALORE – 560 085.

28. DR. CHATIRA .M.S
AGED 28 YEARS
D/O. DR. K. SEETHARAM
NO.57, 7TH CROSS,
SWIMMING POOL EXTENSION
MALLESWARAM,
BENGALURU – 560 003.

29. DR. MARY DIVYA .P
AGED 27 YEARS
D/O. PALNATY PETER
001, SAI NITHIYA MEADOWS APARTMENT
ANUP REDDY LAYOUT,
KODIGEHALLI MAIN ROAD,
K.R. PURAM, BENGALURU – 560 048.

30. DR. MEGHANA VISHNUBHATLA
AGED 29 YEARS
D/O. V.V. SUBRAMANYAM
36, AKSHAYA, ANNAPURNESHWARI LAYOUT,
OPP. ANNAPURNESWARI TEMPLE,
KONANAKUNTE POST,
J.P. NAGAR 7TH PHASE,
BENGALURU – 560 078.

31. DR. BINDHIYA .S
AGED 28 YEARS
D/o. SOMASHEKAR .L
12/2, 13TH CROSS, 8TH MAIN ROAD,
MALLESWARAM,
BENGALURU – 560 003.

32. DR. RANJITH .K.N
AGED 27 YEARS,
S/O. NANJE GOWDA,
87, LAXMI NIVASA, 2ND CROSS,
I MAIN, MARUTHI NAGAR,
J.P. NAGAR VIII PHASE,
BENGALURU – 560 078.

33. DR. M. LAKSHMI PRASANNA
AGED 30 YEARS
D/O. M. RAMA CHANDRA REDDY,
F-5, PUNARVASU APARTMENT,
PANDURANGAPURAM,
VISAKHAPATNAM,
ANDHRA PRADESH – 530 003.

34. DR. AMRUTHAVARSHINI N NANJANGOUDAR
AGED 27 YEARS,
D/O. NAGENDRAPPA .N.G
NO.4146/3, ESHWAR KRUPA,
BEHIND ANJANEYA TEMPLE,
MCC EXTENDED B BLOCK,
DAVANAGERE – 577 002.

35. DR. SALIMSAHEB SHADULSAHEB SHAIKH
AGED 30 YEARS
S/O. SHADULSAHEB H SHAIKH
BEHIND GOVERNMENT HOSPITAL,
HUDANAGAR SINDAGI,
VIJAYAPURA DISRICT – 586 128.

36. DR. MEDIKONDA BINDU SAGAR
AGED 32 YEARS,
S/O. M. RAMA KRISHNA
HOUSE NO.1-3-100/8C,
BHEEM NAGAR, GADWAL,
TELANGANA – 509 125.

37. DR. AJAY .G
AGED 27 YEARS,
S/O. DR. K.V. GOVINDARAJULU,
NO.422, PATANJALI NAGAR,
PAVAGADA, TUMAKURU – 561 202.

38. DR. HANZALAH
AGED 29 YEARS
S/O. AFTAB HUSAIN KOTHAWALA
DWARKA, NASHIK
MAHARASHTRA – 422 011. ... APPELLANTS

(BY SMT. AKKAMAHADEVI HIREMATH, ADVOCATE)

AND:

1. GOVERNMENT OF KARNATAKA
REPRESENTED BY ITS SECRETARY
DEPARTMENT OF PARLIAMENTARY AFFAIRS,
VIDHANA SOUDHA,
BANGALORE – 560 001.

2. GOVERNMENT OF KARNATAKA
HEALTH AND FAMILY WELFARE,
REPRESENTED BY ITS PRINCIPAL SECRETARY
VIDHANA SOUDHA,
BANGALORE – 560 001.

3. PRINCIPAL SECRETARY
DEPARTMENT OF MEDICAL EDUCATION
GOVERNMENT OF KARNATAKA
DR. B.R. AMBEDKAR VEEDHI
VIDHANA SOUDHA,
BANGALORE – 560 001.

4. DIRECTOR OF MEDICAL EDUCATION
ANAND RAO CIRCLE,
BANGALORE – 560 009.

5. RAJIV GANDHI UNIVERSITY OF HEALTH SCIENCES
REPRESENTED BY ITS REGISTRAR
4TH "T" BLOCK, JAYANAGAR,
BANGALORE – 560 041.

6. NATIONAL MEDICAL COMMISSION
(ERSTWHILE MEDICAL COUNCIL OF INDIA)
REPRESENTED BY SECRETARY
POCKET 14, SECTOR VIII,
DWARKA, NEW DELHI – 110 007.

7. KARNATAKA MEDICAL COUNCIL
NO.70, 2ND FLOOR,
VAIDYAKEEYA BHAVANA, K.R. ROAD,
H.B. SAMAJA ROAD CORNER,
BASAVANAGUDI,
BANGALORE – 560 004. ... RESPONDENTS

(BY SMT. PRAMODHINI KISHAN, AGA FOR R-1 TO R-4;
SRI N.K. RAMESH, ADVOCATE FOR R-5;
SRI N. KHETTY, ADVOCATE FOR R-6;
SRI D.S. HOSMATH, ADVOCATE FOR R-7)

THIS WRIT APPEAL IS FILED UNDER SECTION 4 OF THE KARNATAKA HIGH COURT ACT PRAYING TO SET ASIDE THE JUDGMENT DATED 30/08/2019 PASSED BY THE LEARNED SINGLE JUDGE IN W.P.NO.3645/2016 INSOFAR AS IT UPHOLDS SECTION 4 OF THE KARNATAKA COMPULSORY SERVICE TRAINING BY CANDIDATES COMPLETED MEDICAL COURSE ACT, 2012 AS AMENDED BY ACT 35 OF 2017, AND SET ASIDE THE SAID SECTION 4 AND ALLOW THE WRIT PETITION.

THIS APPEAL COMING ON FOR ORDERS THIS DAY, ***NAGARATHNA J.,*** DELIVERED THE FOLLOWING:-

J U D G M E N T

The appellants in this appeal are post-graduate medical students, who were admitted in the academic year 2018-19 for the post-graduate diploma courses. The appellants have assailed the order of learned single Judge passed in W.P.No.3645/2016, dated 30/08/2019. In another similar batch of cases, this Court, by judgment dated 02/12/2020, passed in W.A.No.483/2020 and connected matters, reserved liberty to the appellants therein to file their writ petitions and seek appropriate reliefs before the learned single Judge.

2. We have heard learned counsel for the appellants and learned Additional Government Advocate for respondent Nos.1 to 4.

3. We have perused the judgment dated 02/12/2020, passed in Writ Appeal No.483/2020 connected with Writ Appeal Nos.558/2020, 560/2020. The judgment passed in the said writ appeals is extracted as under:

"**J U D G M E N T**

We have heard learned counsel for the appellants, learned Additional Advocate General and learned Additional Government Advocate appearing for the State at length on I.A.No.2/2020 seeking leave to file these appeals and assail order dated 30/08/2019 in W.P.No.3645/2016.

2. Learned counsel for appellants submitted that the appellants are Doctors, who have successfully completed their Post Graduate Degree subsequent to their Graduate Degree in Medicine (MBBS).

3. The State is now insisting upon compulsory service to be rendered by these appellants pursuant to Section 4 of the Karnataka Compulsory Service Training by Candidates Completed Medical Course Act, 2012 [hereinafter, referred to as "the Act"] ,as amended by the Karnataka Act 35 of 2017 and Karnataka Compulsory Service Training by Candidates Completed Medical Course Rules, 2015 [hereinafter, referred to as "the Rules"]. That these Rules were under challenge in a batch of writ petitions namely, W.P.No.40566/2015 and connected writ petitions, which were disposed of by the learned Single Judge of this Court on 30/08/2019 upholding the validity of Section 4 of the Act as well as the Rules.

4. Learned counsel for the appellants submitted that these appellants had no occasion to assail the Act as well as the Rules earlier, as the same had been stayed by this Court and they were

not made applicable to them. However, subsequent to the order of the learned Single Judge of this Court on 30/08/2019, the State is insisting upon the appellants herein to render service in terms of Section 4 of the Act, when the same cannot be made applicable to them. Learned counsel for appellants in that regard raised several contentions. Therefore, she submitted that the impugned order of the learned Single Judge be set aside by allowing W.P.No.3645/2016.

5. *Per contra,* learned Additional Advocate General instructed by learned Additional Government Advocate, raised an objection with regard to consideration of these appeals as these appellants were not parties to the writ petitions disposed of by the learned Single Judge. That the writ petitions were filed by some other candidates and the learned Single Judge while upholding the validity/*vires* of the Act as well as the Rules, has nevertheless granted relief to the writ petitioners in the said batch of cases and the appellants are seeking setting aside of the judgment only in respect of one writ petition. The writ petitioner is also not arrayed as a party in this appeal. Even if the order of the learned Single Judge is set aside in one writ petition, the order passed in the other writ petitions would apply to these appellants. If this Court is to set aside the order of the learned Single Judge even in one writ petition without hearing the writ petitioner, the same would not be in accordance with law and it would be in violation of the principles of natural justice. That if the appellants' claim that they are a class apart and

they do not belong to the same category of petitioners, who filed the writ petitions and they were disposed of by this Court, it was always open to the petitioners to have independently filed the writ petitions. They could have even sought appropriate reliefs in that regard. Therefore, this Court may not interfere with the judgment of the learned Single Judge at the instance of these appellants, who were not the writ petitioners and who were not parties in the writ petitions disposed of by the learned Single Judge. He further submitted that the learned Single Judge has upheld the validity of the Act and Rules and therefore, the State is duty bound to enforce it on all the candidates.

6. By way of response, learned counsel for the appellants submitted that the State is not right in enforcing the Act and Rules on the appellants, as they were not the candidates prior to 2015 or the candidates, who were admitted prior to 2015 and at the time of their admission in 2106, the Act and the Rules had been stayed by this Court and there was no occasion for them to approach this Court. Further, in the Information Bulletin issued to them, there was no indication about compulsory service subsequent to the completion of their postgraduate course. Therefore, they are entitled to challenge the order of the learned Single Judge.

7. We have considered the submissions of the learned counsel for the respective sides. We find considerable force in the submission of learned

Additional Advocate General. We find the prayer sought for by the appellants is to set aside the order of the learned Single Judge in W.P.No.3645/2016. However, learned Single Judge has passed the common judgment in a batch of writ petitions. But the petitioner who filed W.P.No.3645/2016 is not arrayed as the party. The said petitioner has received certain reliefs at the hands of the learned Single Judge. In the absence of the said writ petitioner, if the order is set aside, it would only affect that petitioner in that case, that too without giving an opportunity of being heard to the said petitioner. Also, the constitutional validity or the *vires* of the Act and the Rules being in question, any interference by the Division Bench exercising appellate jurisdiction would also have an adverse impact on all the writ petitioners, who had been granted relief by the learned Single Judge despite upholding the same. As already noted, the upholding of the validity of the Act or Rules is an order or judgment in *rem,* but the particular reliefs granted to the writ petitioners or parties in the writ petitions would have to be looked into. Further, merely setting aside the order of the learned Single Judge would also not enure to the benefit of the appellants, who have not sought consequential reliefs in these appeals. In the absence of seeking any individual reliefs, the appellants would not be benefited by merely assailing the correctness of the judgment of the learned Single Judge in a single writ petition.

8. In the circumstances, we ***dispose of*** these appeals reserving liberty to the appellants

herein to file their writ petitions assailing the validity of the Act and the Rules having regard to their status and position vis-à-vis, the Act and the Rules. The petitioners are at liberty to seek appropriate reliefs as well as interim reliefs.

Since we are permitting the appellants herein to file their writ petitions and seek appropriate reliefs, the question of delay and laches in filing the writ petitions shall not arise.

Since pending consideration of this application we had granted an interim relief to the appellants by order dated 23/10/2020, which has been continued till date, which is to the effect that the respondent – State or its authorities shall not insist upon the appellants in these appeals to join the respective places for the purpose of carrying out their services in terms of Section 4 of the Karnataka Compulsory Service Training by Candidates Completing Medical Course Act 2012, the said interim order shall be continued for a period of six weeks from today. The appellants are also at liberty to seek appropriate interim order or reliefs in the writ petitions to be filed by them.

It is needless to observe that if these appellants file their writ petitions seeking their independent reliefs including a declaration that the judgment of the learned Single Judge would not apply to these appellants as the Act and the Rules are not applicable to them, the same shall be considered in accordance with law.

> In view of the disposal of the appeals, all other pending application stand disposed."

4. In view of the liberty reserved in the aforesaid judgment, the very same liberty is reserved to the appellants herein also, to file their writ petitions assailing the validity of the Act and the Rules having regard to their status and position in relation to the Act and Rules. The appellants are at liberty to seek appropriate reliefs as well as interim reliefs in the writ petition to be filed by them. Since we are permitting the appellants herein to file writ petition to seek appropriate reliefs, the delay and laches in filing the writ appeal is ignored.

5. In the circumstances, the appeal is ***disposed of*** with the aforesaid liberty. ***Six weeks time is granted from today*** to file the writ petition.

6. Since the appellants are at liberty to seek appropriate reliefs in the writ petition to be filed by them, for a period of six weeks from today, the respondent/State or its Authorities shall not insist upon the appellants in this appeal to join the respective places for the purpose of carrying out their services in terms of Section 4 of the Karnataka Compulsory Service Training by Candidates

Completing Medical Course Act, 2012, as amended by the Karnataka Act 35 of 2017 and Karnataka Compulsory Service Training by Candidates Completed Medical Course Rules, 2015.

In view of disposal of this appeal in the aforesaid terms, all pending applications stand disposed including the application seeking condonation of delay of 170 days.

Sd/-
JUDGE

Sd/-
JUDGE

*S**