

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.04.2020

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THE HON'BLE MR.JUSTICE M.SUNDAR

W.P.No.7507 of 2020

and

W.M.P.Nos.8899 and 8900 of 2020

Dr.G.P.Arulraj

..Petitioner

Vs.

- 1.The Government of India,
rep by its Secretary to Government,
Ministry of Health and Family Welfare,
Room No.348, 'A' Wing, Nirman Bhavan,
New Delhi-110 011.
 - 2.The State of Tamil Nadu,
rep by its Principal Secretary to Government,
Health and Family Welfare Department,
Secretariat, Fort St. George,
Chennai-600 009.
 - 3.The Director of Medical Education,
Kilpauk,
Chennai-600 010.
 - 4.The Secretary,
Selection Committee,
Directorate of Medical Education,
Kilpauk, Chennai-600 010.
 - 5.The Medical Council of India,
rep by its Secretary,
Pocket 14, Sector-8,
Dwaraka,
New Delhi-110 077.
- .. Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking Writ of Mandamus directing respondents to pass orders for granting incentive / weightage marks to the petitioner for the service rendered as Medical Officer in Cadaver (Brain dead donar) Maintenance Unit / Liver Transplant Unit for admission to P.G. Medical course in 2020-2021 session as recommended by the Committee constituted under G.O.Ms.No.536 Health and

Family Welfare (MCA-1) Department dated 15.11.2018 based on the representation submitted by the petitioner dated 28.01.2020 and consequently amend the Prospectus for admission to P.G. Medical Courses for 2020-2021 issued by the fourth respondent dated 12.03.2020 to incorporate weightage marks for Medical Officer in Cadaver (Brain dead donar) Maintenance Unit / Liver Transplant Unit, within a time frame to be fixed by this Court and to pass such further or other orders as this Court may deem fit and proper in the facts and circumstances of the case and thus render justice.

For Petitioner : Mr.G.Sankaran

For Respondents : Mr.K.Srinivasamurthy,
Senior Panel Counsel
(Central Government) for R-1

Mr.E.Manoharan, Spl.G.P.
For RR2 and 3

Mr.Abdul Saleem,
Standing Counsel for R-4

Mr.V.P.Raman for R-5

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ORDER

Aforementioned main writ petition was disposed of on 22.04.2020 at the admission stage with the consent of all counsel for all parties.

2 Thereafter, learned State counsel for respondents 2 and 3, learned Standing counsel for respondents 4 and 5 (three counsel for respondents 2 to 5) have made a joint request through electronic mail today (24.04.2020, Friday) and the same reads as follows :

'To,
The Registrar (Judicial)
High Court, Madras

Respected Sir,

Sub: Listing of WP No: 7507 Of 2020 before
His Lordship Mr. Justice M. Sundar

It is brought to your kind attention the
above mentioned WP, filed by one Dr.P.

Arulraj, was heard by Hon'ble Mr. Justice M. Sundar and disposed off, with directions on 22.04.2020.

At the time of the hearing certain vitals facts which will have an effect on the admission of Post Graduate Medical Candidates across the State and even the Country, were not brought to the attention of the Hon'ble Court. The entire WP was argued under the premise that the All India Counselling was yet to be conducted, whereas the Counselling was already completed online, dispensing with the physical appearance of the candidate and infact the Directorate General of Health Services (DGHS), New Delhi has also instructed the respective States to begin and complete Counselling from 20th April 2020 till 4th May 2020 and the same has also commenced.

Also as per the instructions of DGHS the State Counselling Committee are instructed to conduct their State PG Counselling from April 20th till 4th May 2020 so that students can go and join in their respective allocated Colleges within the stipulated time as per the directions of the Supreme Court, given in Ashish Ranjan and Ors Vs Union of India (WP (C) No: 76/2015) and also in accordance with the Postgraduate Medical Education (Amendment) Regulations 2018. The last date for reporting under the All India Quota, either in person or Online has been fixed as 24.04.2020.

If the State PG counselling dates and release of the merit list gets delayed it will lead to difficulty for the students who have secured the best marks to join the allocated seat thus leaving them with no other option but to join in other State Colleges and could even force them to pay the penalty amount of 15 Lakhs to 20 Lakhs, to get relieved from the other State College where they have been allotted seat and to join the College in the State of Tamil Nadu. This would affect meritorious Candidates. These facts were unfortunately not brought to the attention of the Hon'ble Court and it is pertinent that they are done so in larger public interest. Therefore, we humbly

request that the abovementioned matter be placed before the Hon'ble Court, for mentioning these vital facts.

We humbly request that this issue be treated as urgent and the matter be listed in the hearing today.

We submit our deepest apologies for any inconvenience caused to the Hon'ble Court and to the Registry in this regard.

Kindly note, I shall undertake to inform the Counsel for the Petitioner about the request submitted herein. I have also attached a Signed Copy of the Letter for Listing and also copies of the relevant Documents mentioned in the Letter/Email herein.

Thanking you

Sincerely,

E. Manoharan
Special Government Pleader
Counsel for the Health and Family Welfare
Department, State of Tamil Nadu and Director
of Medical Education

V. P. Raman
Standing Counsel for Medical Council of
India, Delhi

Abdul Saleem
Standing Counsel for the Selection
Committee'

3 The contents of aforementioned electronic mail dated 24.04.2020 is self explanatory. In the light of larger public interest that has been articulated and projected, this Court permitted this matter to be listed in the 'FOR BEING MENTIONED' category albeit through a web hearing on a video conferencing platform.

4 In the web hearing today, counsel for writ petitioner as well as counsel for all five respondents are before me.

5 Before proceeding further, this court places on record its appreciation for all counsel in this matter, i.e., counsel for writ petitioner for having attended the web hearing in short notice, though writ petition was

disposed of and three counsel for respondents 2 to 5 for the fairness with which the aforementioned electronic mail has been sent. With regard to learned Senior Panel Counsel for first respondent, this court appreciates said counsel joining the web hearing today at short notice and participating in the same.

6 The crux and gravamen of what was not brought to the notice of this Court on 22.04.2020 (when the writ petition was disposed of with consent of all counsel as mentioned supra) is as follows:

(a) All India counseling had already been completed resorting to online counseling dispensing with personal appearance of candidates;

(b) A batch of five writ petitions being W.P.No.8681 of 2019, etc., inter-alia assailing G.O.Ms.No.86 dated 06.03.2019 came to be disposed of by a common order made by another Hon'ble Single Judge on 27.03.2019;

(c) There is a cut off or deadline of 04.05.2020.

7 Owing to aforesaid backdrop, the order dated 22.04.2020 passed in this writ petition stands recalled.

8 As the earlier order stands recalled, the same will now stand replaced by this order.

9 Today, Mr.E.Manoharan, learned Special Government Pleader for respondents 2 and 3 submitted that the representation of the writ petitioner dated 28.01.2020 has been under active consideration and that the same will be disposed of today and communicated by electronic mail to the writ petitioner through his counsel latest by tomorrow, i.e., 25.04.2020. This submission is recorded.

10 Mr.Abdul Saleem, learned Standing Counsel for 4th respondent submitted that the merit list has not been published today. Saying so, learned Standing counsel submitted that in any event, the process of online counseling which the 4th respondent intends to take up will take not less than eight (8) days from the date of publishing of the merit list. This submission is recorded.

11 If the disposal of the representation is in favour of the writ petitioner, that would culminate in a happy ending for all concerned. However, if the disposal of aforementioned representation of writ petitioner is

not in his favour, as the online counseling would go on for eight days from the date of publishing of merit list (in the light of the submission made by learned Standing counsel for 4th respondent) coupled with his stated position that merit list has not been published today, writ petitioner will have a window to seek legal redress. Therefore, this Court deems it appropriate to permit the 4th respondent to publish the merit list and commence the online counseling.

12 Though obvious, it is made clear that this Court has refrained itself from expressing any view or opinion regarding the merits of the rival submissions as everything would depend on the contents of disposal of the writ petitioner's representation. Likewise, though obvious, it is also made clear that this order will not come in the way of writ petitioner assailing (in a manner known to law) the communication / order disposing of writ petitioner's representation if it is not in his favour.

13 As mentioned supra, the earlier order dated 22.04.2020 stands recalled.

14 Instant writ petition now stands disposed of on above terms. There shall be no order as to costs. Consequently, connected writ miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

vvk
To

- 1.The Secretary to Government,
The Government of India,
Ministry of Health and Family Welfare,
Room No.348, 'A' Wing, Nirman Bhavan,
New Delhi-110 011.
- 2.The Principal Secretary to Government,
The State of Tamil Nadu,
Health and Family Welfare Department,
Secretariat, Fort St. George,
Chennai-600 009.
- 3.The Director of Medical Education,
Kilpauk,
Chennai-600 010.

4.The Secretary,
Selection Committee,
Directorate of Medical Education,
Kilpauk, chennai-600 010.

5.The Secretary,
The Medical Council of India,
Pocket 14, Sector-8,
Dwaraka,
New Delhi-110 077.

W.P.No.7507 of 2020

RSV(CO)
CB(28/07/2020)



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