

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.07.2020

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P No.9031 of 2020
and W.M.P.No.10986, 10987 and 10990

T.A.Sindhuja,
W/o.D.Subbaraj,
No.9, Pillaiyar Koil Street,
Thenmozhi Nagar,
Kilkattalai,
Chennai - 600 117.Petitioner

vs.

1.The State of Tamil Nadu,
Represented by its Secretary,
Health and Family Welfare Department,
Fort, St.George, Chennai - 600 009.

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

3.The Dean,
Government Kilpauk Medical College,
No.822, Poonamallee High Road,
Kilpauk,
Chennai - 600 010.

4.The Commissioner,
Greater Chennai Corporation,
Ripon Building,
Chennai - 600 003.

5.The Head of Institution,
Kanchi Kamakoti Child Trust Hospital,
No.12A, Nageswara Road,
Nungambakkam,
Chennai - 600 034.

...Respondents

Prayer: Writ Petition filed under Article 226 of the
Constitution of India for issuance of a Writ of Certiorarified
Mandamus, to call for the records pertaining to the impugned

order of the first respondent in G.O.Ms.No.185 Health and Family Welfare (MCA-I) Department dated 13.04.2020 and the consequential order of the second respondent in proceeding in R.Dis.No.092905/MEII(1)/2019 dated 18.05.2020 and quash the same and consequently directing the respondents 1 to 5 to permit the petitioner to join and undergo the DNB Paediatrics Course for the admission in the year 2020 in the fifth respondent College.

For Petitioner : Mr.C.Vidhusan

For Respondents: Mr.A.Aruldass

Government Advocate for R1

Mr.E.Manoharan

Special Government Pleader

for R2 and R3

Mr.Raja Srinivasan for R4

O R D E R

This writ petition has been filed challenging the Government order issued by the first respondent, dated 13.04.2020 and for a consequential order issued by the second respondent in the proceedings dated 18.05.2020 and for a consequential direction to permit the petitioner to join the specialty course in the fifth respondent College.

2. The brief facts of the case is that the petitioner joined MBBS course under the Government quota in the year 2007 and completed the same in the year 2013. The petitioner thereafter registered herself in the employment exchange and she got employment in the hospital run by the Chennai Corporation. Thereafter the petitioner got her admission in the Post Graduation Course after successfully passing the NEET examination and she joined the third respondent college as a non-service candidate. At the time of joining, the petitioner had given an undertaking that after the completion of the course she will work in the Government hospital. The petitioner also executed a bond for a sum of Rs.20,00,000/- in this regard.

3. The petitioner completed the post graduation from the third respondent college on 31.05.2019. The petitioner continued to serve in the hospital belonging to the Chennai Corporation and admittedly she did not receive any offer to serve in the Government Hospital till date.

4. The Petitioner thereafter wrote the entrance examination to join the specialty course and she successfully got the allotment in the fifth respondent college to undergo the specialty course.

5. The petitioner thereafter approached the third

respondent to collect her original certificates and documents in order to handover the same to the fifth respondent and the same was refused to be given to the petitioner on the ground that she has executed a bond with the undertaking to serve the State Government for a period of two years. The grievance of the petitioner is that the petitioner has been serving in the hospital belonging to the Chennai Corporation from the year 2014 onwards and the same should be taken into consideration and that apart the petitioner is also willing to give any undertaking to the third respondent to complete her specialty course in the fifth respondent college and thereafter serve the State Government for a period of two years. However, the offer made by the petitioner was rejected and aggrieved by the same, the present writ petition has been filed before this Court.

6. When the matter came up for admission, Mr.E.Manoharan, learned Special Government Pleader appearing on behalf of the second and third respondents took notice. This Court expressed its mind that the petitioner serving in the hospital belonging to the Chennai Corporation is as good as serving in the hospital belonging to the State Government and therefore the request made by the petitioner may be considered by getting an undertaking that she will complete the specialty course in the fifth respondent college and handover the certificates to the third respondent and will serve the State Government as per the original undertaking.

7. The learned counsel for the petitioner submitted that pursuant to the suggestion made by this Court, the petitioner was called for a meeting by the second and third respondents and the original certificates were handedover to the petitioner after getting an undertaking. This submission made by the learned counsel for the petitioner is recorded.

8. Mr.E.Manoharan, learned Special Government Pleader submitted that even as per the prospectors, the State Government can avail the services of the candidate within a period of two years from the date of completion of the post graduation. The learned counsel submitted that the petitioner is admittedly a non-service candidate and she completed the post graduation only in the year 2019. Therefore, the State Government is entitled to avail the services of the petitioner within a period of two years. The learned Special Government pleader further developed his arguments by submitting that as a Special case, the case of the petitioner was considered after a suggestion was made by this Court since the petitioner was serving in the hospital belonging to the Chennai Corporation. Even though technically this cannot be construed as serving for the State Government, decision was taken in obedience to the suggestion made by this Court as a special case and therefore this case should not be

taken as a precedent in any future case.

9. The learned counsel submitted that an undertaking has been given by the petitioner before the third respondent and the certificates have also be handedover to the petitioner. At the outset, this Court wants to place its appreciation to the response made by the second and third respondent to the suggestion made by this Court. This Court felt that the petitioner is serving in the hospital belonging to the Chennai Corporation and the Chennai Corporation has already given reliving order to the petitioner to join the fifth respondent college after taking an undertaking from the petitioner and therefore a hyper technical view need not be taken in the peculiar facts of the present case. As rightly contended by the learned Special Government Pleader, the suggestion made by this Court and acted upon by the second and third respondents should not be taken as a precedent in any other case and the same is confined to the peculiar facts of the present case. It goes without saying that the petitioner after completion of the course in the fifth respondent institution shall again report back before the fourth respondent namely the Chennai Corporation as per the undertaking given and shall continue with her service in the hospital belonging to the Chennai Corporation. It is also made clear that as and when the State Government wants to avail the services of the petitioner, necessary request can be made to the fourth respondent in order to get a no objection to make the petitioner serve in a Government Hospital. On completion of the course before the fifth respondent institution, the petitioner shall handover the entire original certificates to the third respondent as per the undertaking.

10. This writ petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS I)

//True Copy//

Sub Assistant Registrar

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To

1.The State of Tamil Nadu,
Represented by its Secretary,
Health and Family Welfare Department,
Fort, St.George, Chennai - 600 009.

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

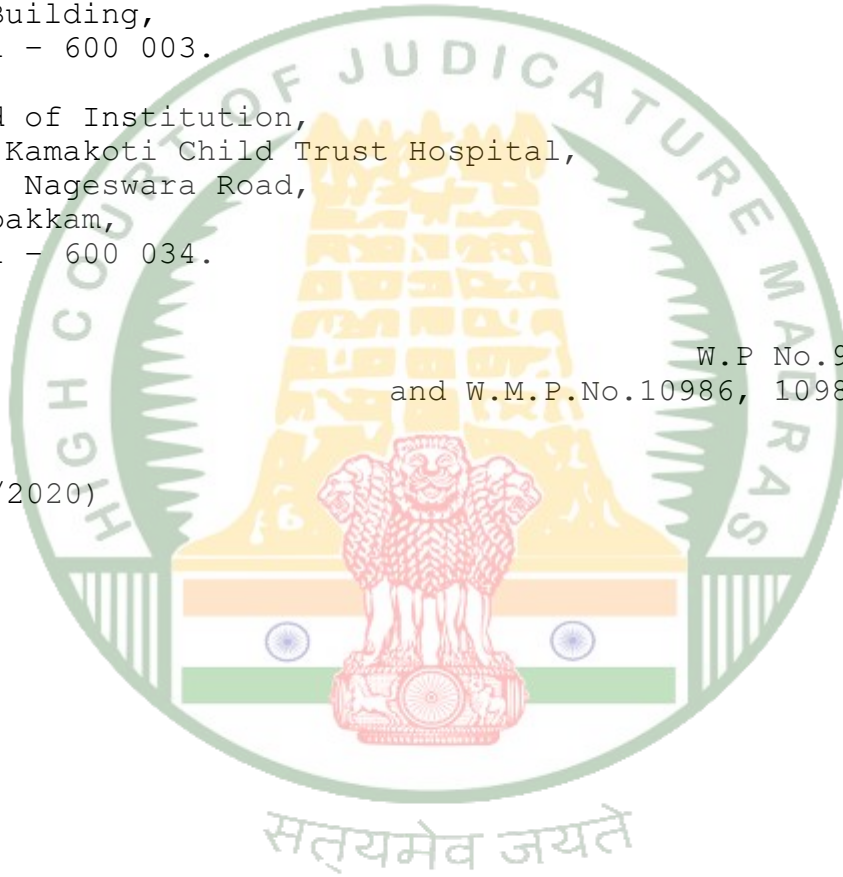
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AD(CO)
RMP(07/08/2020)



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