

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.12.2020

CORAM:

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

W.P.Nos.18857 and 18963 of 2020
and
WMP No.23445 of 2020

W.P.No.18857 of 2020

Dr.Harishankar B.G.V. M.S

...Petitioner

Vs.

1 State of Tamil Nadu
Rep. by its Principal Secretary
Department of Health and Family Welfare
Secretariat, Chennai- 600 009.

2 Director of Medical Education
Directorate of Medical Education (DME)
156, Poonamallee High Road
Kilpauk, Chennai- 600 010.

3 Dean
Government Kilpauk Medical College
Chennai- 600 010.

...Respondents

This Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Declaration and Mandamus Declaring the 1st respondents in G.O. Ms.No.185 Health and Family welfare (MCA1) Department dated 13.04.2020 is not relevant and applicable to the petitioner and in consequence thereof direct the 3rd respondent to return the original certificates to the petitioner on execution of an undertaking to serve the Government of Tamil Nadu if offer of employment is given on completion of Super Specialty Course, without insisting for submission of the Bank Guarantee in order to enable the Petitioner for pursuing Super Specialty Course.

W.P.No.18963 of 2020

Dr.Hridya Vasudevan

...Petitioner

Vs.

1 State of Tamil Nadu
Rep. by its Principal Secretary
Department of Health and Family welfare
Secretariat
Chennai 600 009

2 Director of Medical Education
Directorate of Medical Education (DME)
156, Poonamallee High Road
Kilpauk, Chennai 600 010

3 Dean
Thanjavur Govt Medical College
Thanjavur 613 004.

...Respondents

This Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the 2nd and 3rd respondent authorities to return all original certificates of the Petitioner that were submitted by her at the time of her admission to MD (General Surgery) course during 2015 at the 3rd Respondent college together with the petitioners original Post Graduation i.e. MD (General Surgery) Certificates after obtaining necessary undertaking in terms of the Government policy on the subject immediately so as to enable the petitioner to take admission in Super Speciality Course.

For Petitioner in both WPs.: Mr.R.Arumugam

For Respondents in both WPs.: Mr.E.Manoharan

Special Government Pleader

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ORDER

The issue involved in these writ petitions are common and hence, they were heard together and this common order is passed.

2. These writ petitions have been filed to declare that G.O. Ms. No. 185, dated 13.04.2020 is not relevant and

applicable to the petitioners and for a consequential direction to direct the 3rd respondent to return all original certificates to the petitioners that were submitted to them at the time of their admission to the M.D course.

3. The case of the petitioner in W.P. No. 18963 of 2020 is that she was admitted to PG degree in the year 2015-2016 and she completed the course during May 2018. This petitioner along with others filed a writ petition before this court in W.P. No. 23874 of 2018 batch seeking for the release of the original certificates and the said writ petition was allowed by an order dated 01.10.2018. This order was taken on appeal by the State in W.A. No.799 of 2019 and the Hon'ble First Bench by an order dated 06.10.2020 allowed the appeal by issuing various directions. According to this petitioner, she is entitled to receive the original certificates in terms of the order passed by the Hon'ble Division Bench and she is also willing to execute any undertaking to serve the bond period after the completion of the Super Specialty Course. However, the request made by the petitioner has not been considered and she has filed this writ petition seeking for appropriate directions.

4. The case of the petitioner in W.P. No. 18857 of 2020 is that he joined the M.D course during the year 2017 and completed the course on 07.05.2020. Thereafter, his services were utilised by the respondents during the pandemic situation. According to the petitioner, he had not been accommodated in any regular vacancy and he has only been engaged on temporary basis. This petitioner wants to join a Super Specialty Course and therefore, he has come before this Court challenging the applicability of the Government Order and for consequential direction to release the certificates to enable the petitioner to join the Super Specialty Course.

5. Heard Mr. R.Arumugam, Learned Counsel for petitioner and Mr. E.Manoharan, Learned Special Government Pleader for respondents.

6. It is brought to the notice of this Court that the petitioner in W.P. No. 18963 of 2020 after completion of the course was provided with an appointment and posting order to work in the Tamil Nadu Medical Service to satisfy two years bond period and she did not join Government service. In fact, she was one of the petitioners in the earlier batch of writ petitions, which ultimately culminated in the order passed by the Hon'ble Division Bench. The bond amount for Post-Graduate degree

prescribed for the academic year 2015-2016 was Rs.40 Lakhs and the petitioner has accepted to this condition. The petitioner has to either serve this Two years period in the Tamil Nadu Medical Service or she has to execute a bank guarantee for a sum of Rs.40 Lakhs to the respondents. Unless she fulfills either of these conditions, she will not be entitled for return of the original certificates. The claim made by this petitioner in the present writ petition is not sustainable.

7. Insofar as the petitioner in W.P. No. 18857 of 2020 is concerned, he completed the course during May 2020 and he was engaged immediately thereafter as COVID Duty Doctor for nearly five months. Taking into consideration the judgement of the Hon'ble Division Bench in W.A. No. 799 of 2019, this petitioner will have to serve for the remaining period of 19 months or this petitioner will have to execute a bank guarantee for a sum of Rs.31,66,666/- which is equivalent to the unserved period of 19 months. The relevant Government Order is clearly applicable to this petitioner. Unless this petitioner satisfies either of these conditions, the petitioner will not be entitled for the return of the original certificates.

8. The Hon'ble Division Bench of this Court in W.A No. 799 of 2019 has upheld the conditions of the bond and has held that the Doctors who are bound by the bond cannot claim the return of the original certificates as a matter of right. This court has carefully considered the judgement of the Hon'ble Division Bench and the conclusions arrived therein and in the considered view of this Court, the petitioners are not entitled for the relief claimed in these writ petitions and accordingly, both the writ petitions stand dismissed. No Costs. Consequently, Connected Miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS III)

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Sub Assistant Registrar

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To

1. The Principal Secretary
State of Tamil Nadu
Department of Health and Family Welfare
Secretariat
Chennai- 600 009.

2 Director of Medical Education
Directorate of Medical Education (DME)
156, Poonamallee High Road
Kilpauk, Chennai- 600 010.

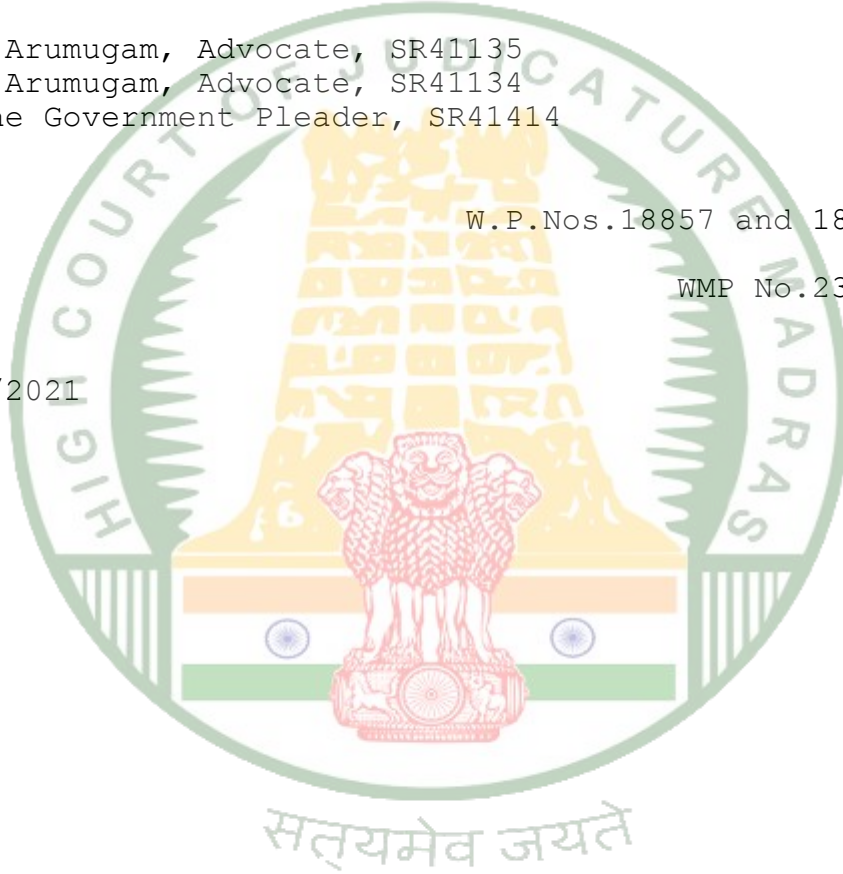
3 Dean
Government Kilpauk Medical College
Chennai- 600 010.

4 Dean
Thanjavur Govt Medical College
Thanjavur 613 004.

+1cc to R.Arumugam, Advocate, SR41135
+1cc to R.Arumugam, Advocate, SR41134
+1cc to The Government Pleader, SR41414

W.P.Nos.18857 and 18963 of 2020
and
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CO (SR II)
BDL/21/01/2021



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