



IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED :17.12.2020

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.19396 of 2020

Dr.Kavya Naik MS (Gen.Sur)

... Petitioner

Vs.

1. State of Tamil Nadu
Rep by its Secretary,
Department of Health
and Family Welfare,
Secretariat,
Fort. St George, Chennai - 09.
2. Director of Medical Education (DME)
Directorate of Medical Education
156, Poonamallee High Road, Kilpauk,
Chennai - 10
3. Dean,
Coimbatore Medical College,
Coimbatore 641 018.
4. Director General of Health Services
Ministry of Health and Family Welfare,
Government of India, New Delhi.
5. Dean
Nizam Institute of Medical Sciences,
Hyderabad.
6. National Medical Commission
Rep by its Secretary, Pocket 14, Sector 8,
Phase I, Dwarka, New Delhi 110 007. ... Respondents

Prayer: This Petition filed under Article 226 of the Constitution of India for issuance of 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 MS (General Surgery) Course on 22.4.2015 at the 3rd Respondent college together with the petitioners original post Graduation i.e MS (general Surgery)



Certificates and pass such further or other orders as deemed fit and proper so as to enable the petitioner to take admission in Super specialty MCH (Plastic and Reconstructive Surgery) Course at the 5th respondent college by 17.12.2020.

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For Petitioner : Mr.R.Arumugam

For Respondents: Mr.Karthikei Balan
Government Advocate
[For R1 to R5]
Mr.V.P.Raman
Standing counsel
[For R6]

ORDER

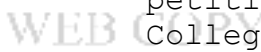
This Writ Petition has been filed for the issue of Writ of Mandamus directing the 2nd and 3rd respondents to return back all the original certificates of the petitioner that was submitted by the petitioner at the time of her admission to the MS Course in the year 2015 in the 3rd respondent College.

2. Heard Mr.R.Arumugam, learned counsel for the petitioner and Mr.Karthikei Balan, learned Government Advocate appearing for the respondents R1 to R5 and Mr.V.P.Raman, learned Standing counsel appearing on behalf of the 6th respondent.

3. The issue involved in the present Writ Petition is squarely covered by the Division Bench Judgement of this Court in W.A.No.799 of 2019 etc. batch [The State of TamilNadu & another vs. P.S.Sairam & others] dated 6.10.2020. The relevant portion in the judgment is extracted hereunder.

Para 104.

'104. We have, therefore, no option but to set aside the impugned judgment dated 1.10.2018, but with a direction that in the event the period of two years has passed by after the passing out of the candidates without any offer of employment, then, in that event, they are not bound by the terms of the bonds executed by them and are consequently entitled for return of certificates. It is further clarified that this period will have to be sorted out in respect of all the candidates together with the details of the offer of employment made to them. The State Government shall, accordingly, prepare a list of all such candidates within fifteen days from today and notify it with details, including the date of passing out; the status of the offer of employment or



4. In the present case, it is seen from the records that the petitioner has completed the MS Course from the 3rd respondent College on 31.5.2018. The petitioner has not been offered any employment for more than two years by the respondents. Therefore, as held by the Division Bench, the candidates who are not offered any employment for a period of two years after they completed their course, are not bound by the terms of the bond executed by them and consequently, they are entitled for return of certificates. The Division Bench had directed the State Government to prepare a list of such candidates within 15 days and notify the same. It is also seen from the records that the Directorate of Medical Education has directed the Deans of the various Medical Colleges to return the original certificates of those candidates who fall under this category.

6. This Writ Petition is disposed of with the direction to the 3rd respondent to consider the representation made by the petitioner on 14.12.2020 and after proper verification, shall return the original certificates to the petitioner within a period of four weeks from the date of receipt of a copy of this order.

Sd/-
Assistant Registrar

<https://hcservices.ecourts.gov.in/hcservices/>



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To

1. The Secretary,
State of Tamil Nadu
Department of Health
and Family Welfare,
Secretariat,
Fort. St George, Chennai - 09.
2. Director of Medical Education (DME)
Directorate of Medical Education
156, Poonamallee High Road, Kilpauk,
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5. Dean
Nizam Institute of Medical Sciences,
Hyderabad.
6. The Secretary
National Medical Commission
Pocket 14, Sector 8,
Phase I, Dwarka, New Delhi 110 007.

+1 cc to M/s.R.Arumugam Advocate sr41730

+1 cc to the Government pleader sr41852

W.P.No.19396 of 2020

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aa22/12/2020