



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.11.2020

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THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

W.P. (MD)No.15969 of 2020

& WMP(MD).Nos.13380 and 13381 of 2020

Dr.V.Gopinath

... Petitioner

-Vs-

1.The Principal Secretary to
Government of Tamil Nadu,
Health and Family Welfare Department,
Secretariate,
Chennai.

2.The Director of Medical Education,
Chennai.

3.The Director of Medical and Rural Health Services,
Chennai.

4.Dean,
Tirunelveli Medical College,
Tirunelveli.

5.Meenakshi Mission Hospital and Research Centre,
Late Area,
Melur Main Road,
Madurai.

... Respondents

Prayer: Writ Petition is filed under Article 226 of Constitution of India, to issue a writ of Certiorarified Mandamus, to call for the records of the 1st respondent in G.O.Ms.No.185, Health and Family Welfare(MCA1) Department dated 13.04.2020 and quash the condition found in clause 4 relating to submission of Bank Guarantee as illegal and arbitrary and in consequence thereof direct the 4th respondent to return the original certificates to the petitioner on execution of the bond without submission of the Bank Guarantee, in order to produce the same before the 5th respondent for pursuing Super Speciality course.

For Petitioner : Mr.P.Ganapathi Subramanian

For Respondents : Mr.K.P.Krishnadoss,
Additional Government Pleader
for RR1 to 4



ORDER

The petitioner has come forward with this Writ Petition, to call for the records of the 1st respondent in G.O.Ms.No.185, Health and Family Welfare(MCA1) Department dated 13.04.2020 and quash the condition found in clause 4 relating to submission of Bank Guarantee as illegal and arbitrary and in consequence thereof direct the 4th respondent to return the original certificates to the petitioner on execution of the bond without submission of the Bank Guarantee, in order to produce the same before the 5th respondent for pursuing Super Speciality course.

2.By consent of both parties, this Writ Petition is taken up for final disposal at the stage of admission itself.

3.Mr.K.P.Krishnadoss, learned Additional Government Pleader accepts notice on behalf of the respondents 1 to 4.

4.The learned counsel for the respondents 1 to 4 submitted that the matter is covered by the order dated 16.10.2020 passed in W.P.No.14906 of 2020 and that the petitioner is also similarly placed.

5.The relevant portion of the order dated 16.10.2020 passed in W.P.No.14906 of 2020 is extracted hereunder;

"5. This Court has to strike a balance and ensure that the petitioner is not prevented from pursuing further with her higher studies and at the same time, the respondents are also not deprived of utilizing the services of the petitioner as per the bond condition. In this case, the petitioner has rendered services for a period of 13 months even according to the respondents. Therefore, there has to be some assurance from the petitioner to make her come back and complete her service as per the bond condition. This assurance can be ensured by taking sufficient security from the petitioner by way of bank guarantee and post dated cheque. This Court believes that the petitioner will not go back on her words and she will come back after completing the super specialty course and render service as per the bond condition.

6. The petitioner has requested this Court to consider giving a bank guarantee for a sum of Rs. 10,00,000/- and for giving post dated Cheque for the balance sum of Rs. 8,33,326/-. Considering the financial constraints expressed by the petitioner, this Court is inclined to accept the request made by the petitioner. This Court has also taken into consideration the fact that the petitioner is a meritorious student.



7. In view of the above, there shall be a direction to the petitioner to issue bank guarantee in favor of Dean, Madras Medical College for a sum of Rs. 10,00,000/-. The bank guarantee shall have a validity period of 37 months from November 2020. The petitioner shall also issue a cheque in favor of Dean, Madras Medical College, Chennai 600 010, duly signed and amount filled up to the tune of Rs. 8,33,326/-. The date shall be left blank in order to ensure that the cheque will be put to use at the appropriate time if in case, the petitioner does not fulfill the undertaking. Immediately after the petitioner fulfills these two conditions, the 6th respondent shall handover all the original certificates to the petitioner to enable the petitioner to join the super specialty course.

8. The petitioner shall rejoin service within a period of 21 days from the date of completion of super specialty course. The petitioner shall hand over all the certificates at the time of rejoining and she shall complete the balance period of service. Immediately on rejoining, the cheques issued by the petitioner as guarantee shall be returned back to the petitioner.

9. This Writ petition is disposed of with above directions. No costs. Consequently, the connected miscellaneous petitions are closed.

6. This Writ Petition is disposed of on the above terms. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

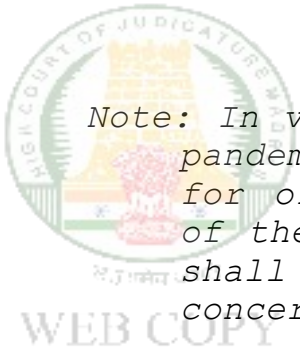
Assistant Registrar ()

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/ /2020

Sub Assistant Registrar (CS)

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Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The Principal Secretary to
Government of Tamil Nadu,
Health and Family Welfare Department,
Secretariat,
Chennai.

2.The Director of Medical Education,
Chennai.

3.The Director of Medical and Rural Health Services,
Chennai.

4.Dean,
Tirunelveli Medical College,
Tirunelveli.

+1 CC to SGP (SR-22065[F] dated 18/11/2020)

Order made in
W.P. (MD)No.15969 of 2020
11.11.2020

PU(CO)
KM (11.12.2020) 4P 6C