



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Special Original Jurisdiction)

Friday, the Seventeenth day of December Two Thousand Twenty One

PRESENT

THE HON`BLE MR.JUSTICE V.PARTHIBAN

WMP.NO.6071 OF 2021

IN WP.NO.5472 OF 2021

1 DR.ANURADHA.M [PETITIONERS]
D/O.MURUGESAN, NON MEDICAL TUTOR,
DEPARTMENT OF ANATOMY, GOVERNMENT
KILPAUK MEDICAL COLLEGE, KILPAUK,
CHENNAI- 600 010.

2 DR.N.SRIDHARAN
S/O.NEELAMEGAN, NON MEDICAL TUTOR,
DEPARTMENT OF ANATOMY, MADRAS MEDICAL
COLLEGE,CHENNAI- 600 003.

3 DR.S.NIRMALA
D/O.C.R.SAMBANDAMOORTHY, NON MEDICAL TUTOR,
DEPARTMENT OF ANATOMY, MADRAS MEDICAL
COLLEGE,CHENNAI- 600 003.

Vs

1 THE STATE OF TAMIL NADU [RESPONDENTS]
REP.BY ITS PRINCIPAL SECRETARY TO
GOVERNMENT, HEALTH AND FAMILY WELFARE
DEPARTMENT, SECRETARIAT, FORT ST GEORGE,
CHENNAI- 600 009.

2 THE DIRECTOR OF MEDICAL EDUCATION,
KILPAUK, CHENNAI- 600 010.

3 THE DIRECTORATE OF PUBLIC HEALTH
AND PREVENTIVE MEDICINE, 64/75,MAIN
ROAD, CHOKKALINGAM NAGAR, TEYNAMPET,
CHENNAI-600 086.

4 DR.EGESWARI, MD,
W/O.DR.B.HEMANTH KUMAR,
SENIOR ASSISTANT PROFESSOR OF ANATOMY,
INSTITUTE OF ANATOMY, MADURAI MEDICAL
COLLEGE, MADURAI 625 020



5 DR.A.THENMOZHI, MD,
D/O.P.M.AYYASAMY,
SENIOR ASSISTANT PROFESSOR OF ANATOMY,
GOVERNMENT. DHARMAPURI MEDICAL COLLEGE,
DHARMAPURI 636 701.

6 DR.M.LATHA, MD,
W/O. DR.M.RAJA,
SENIOR ASSISTANT PROFESSOR OF ANATOMY,
INSTITUTE OF ANATOMY,
MADURAI MEDICAL COLLEGE, MADURAI 625020.

7 DR.ELAMATHI BOSE, MD,
D/O. BOSE, SENIOR ASSISTANT PROFESSOR
OF ANATOMY, MADRAS MEDICAL COLLEGE,
INSTITUTE OF ANATOMY, CHENNAI 600 003.

8 DR.J.K.RAJA, MD,
S/O.J.KIRUPAKARAN,
SENIOR ASSISTANT PROFESSOR OF ANATOMY,
DEPARTMENT OF ANATOMY,
STANLEY MEDICAL COLLEGE, CHENNAI 600001.

9 DR.S.ARRCHANA, MD,
W/O. DR.S.SARAVANAN,
SENIOR ASSISTANT PROFESSOR OF ANATOMY,
MADRAS MEDICAL COLLEGE, INSTITUTE OF ANATOMY,
CHENNAI 600 003.

10 DR.R.SENTHAMIZHSELVI,
W/O. DR.S.RAJADURAI,
SENIOR ASSISTANT PROFESSOR,
CHENGALPATTU MEDICAL COLLEGE, GST ROAD,
CHENGALPATTU 603 001.

(R4 TO R10 IMPEADED VIDE ORDER DATED 17.12.2021 MADE IN
WMP.20367/2021 IN WP.5472/2021 BY VPNJ)

11 DR.K.ARUMUGAM,
SENIOR ASSISTANT PROFESSOR, DEPARTMENT OF ANATOMY,
THIRUNELVELI MEDICAL COLLEGE, THIRUNELVELI.

(R11 IMPEADED VIDE ORDER DT 17.12.2021 MADE IN WMP.14129/2021 IN
WP.5472/2021 BY VPNJ)



Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to grant an order of Interim stay , staying the operation of the circular issued by the 2nd respondent in Ref. No. 46986/ E1/ 5/ 2020 dated 19.02.2021, in so far as non- inclusion of the name of the petitioners working as Non- Medical Tutor/ Assistant Professors to the post of Associate Professor, 2018 (WMP.NO.6071/2021) pending disposal of the WP.NO.5472/2021.

Order : This Miscellaneous petition coming on this day for hearing upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of MR.G.SANKARAN, Advocate for the petitioners and of MR.V.VELUCHAMY, Additional Government Pleader on behalf of the Respondents 1 to 3 and of M/S.V.SRIMATHI, Advocate for the Respondents 4 to 10 and of M/S.R.NARESH KUMAR, Advocate for the 11th Respondent, the court made the following order:-

The petitioner has filed the main Writ Petition praying for issuance of a Writ of Certiorarified Mandamus to call for the records relating to the impugned Circular issued by the second respondent in Ref.No.46986/E1/5/2020, dated 19.02.2021 insofar as non-inclusion of the name of the petitioners working as Non-Medical Tutors/Assistant Professors to the post of Associate Professor and to quash the same and consequently direct the respondents to include the name of the petitioners in the panel for the year 2020-2021 and give promotion to the post of Associate Professor in accordance with their eligibility as per Service Rules.

2. Pending the above Writ Petition, W.M.P.No.6071 of 2021 has been filed by the petitioners/Non-Medical Tutors/Assistant Professors, seeking for an order of interim stay of the operation of the above said Circular, insofar as non-inclusion of the name of the petitioners working as Non-Medical Tutors/Assistant Professors to the post of Associate Professor.

3. Earlier, on 08.03.2021, this Court has granted an order of interim stay of the impugned Circular, dated 19.02.2021. The petitioners are the Non-Medical Tutors working in various Government Medical Colleges/Hospitals under the control of the Director of Medical Education, Chennai.

4. Their grievance is that, despite their appointment several years ago, which had been continued, they had not been granted promotion and not even allowed to participate in the transfer counselling.

5. According to the petitioners, their non-inclusion for promotion to the post of Associate Professor, vide impugned Circular, is unjust and unreasonable and therefore, they are before this Court.



6. In the above circumstances, this Court has granted interim stay on 08.03.2021.

7. However, when this W.M.P. is taken up for hearing today, on behalf of the impleaded respondents, who are regular Doctors working in various Government Medical Colleges/Hospitals, submissions were made. In view of the stay granted by this Court at the instance of the Non-Medical Tutors, their promotion has been with-held needlessly and unnecessarily.

8. The learned counsel for the impleaded Doctors urged this Court to vacate the interim order of stay on the simple ground that these Doctors belong to a completely different class by themselves and their promotion cannot be with-held, in view of certain grievances expressed by the Non-Medical Tutors. In case the Non-Medical Tutors have any grievance, it is upto them to convince the Government to provide a separate channel for promotion to them, but they can certainly not block any promotion to be granted to the regular Doctors, who are working as Faculty Members in the Medical Colleges in various specialities.

9. This Court considered the submissions made by the learned counsel for the impleaded Doctors and also has perused the contents of the affidavit filed in support of the Writ Petition (WP) / Writ Miscellaneous Petitions (WMP).

10. Although on 08.03.2021, this Court has granted interim stay of the impugned Circular, dated 19.02.2021, but the operation of the impugned Circular is affecting the valuable rights of these impleaded Doctors who have been waiting for promotion in their own channel.

11. If the blanket order of stay is allowed to continue, the same would result in grave miscarriage of justice to these regular Doctors/Assistant Professors, who are otherwise entitled to be promoted in their own turn. Their promotions certainly cannot be linked to the grievance of the Non-Medical Tutors.

12. As rightly contended by the learned counsel for the regular Doctors/Assistant Professors, their promotional chances/prospects cannot be allowed to be affected by continuance of the interim order of stay. The continuance of the interim order of stay, in any event, is not going to help the writ petitioners for advancing their cause.

13. In the above circumstances, this Court is of the view that the interim order of stay granted on 08.03.2021, cannot be continued any further and as such, the continuance of stay would completely and illegally imperil the career progression of the regular Doctors/Assistant Professors, who form a different class by themselves.



14. In the said circumstances, the interim stay granted on 08.03.2021 is vacated. W.M.P.No.6071 of 2021 is disposed of accordingly.

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15. Post the main writ petition on 05.01.2022 for final hearing.

16. The official respondents are at liberty to go ahead with the regular promotion as per the Rules and Regulations in vogue, if they are so advised.

-sd/-

17/12/2021

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Sub Assistant Registrar (Statistics / C.S.)
High Court, Madras - 600 104.

TO

1 THE PRINCIPAL SECRETARY TO GOVERNMENT,
THE STATE OF TAMIL NADU
HEALTH AND FAMILY WELFARE DEPARTMENT,
SECRETARIAT, FORT ST GEORGE,
CHENNAI- 600 009.

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MAIN ROAD, CHOKKALINGAM NAGAR,
TEYNAMPET, CHENNAI-600 086.

Order

in

WMP.NO.6071 OF 2021

IN WP.NO.5472 OF 2021

Date :17/12/2021

From 26.2.2001 the Registry is issuing certified
copies of the Interim Orders in this format
PM(23/12/2021)