



WEB COPY

IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 06.10.2021

CORAM:

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

W.P.No.20847 of 2018
and W.M.P.Nos.24472 of 2018,
3084 of 2020 & 17484 of 2021

(Through Video Conference)

Dr.Govind K.Purushothaman

...Petitioner

Vs

- 1) State of Tamil Nadu,
Rep. by Secretary,
Department of Health and Family Welfare,
Fort St.George, Chennai 600 009
- 2) The Directorate of Medical Education,
P.H.Road, Kilpauk, Chennai 600 010
- 3) Medical Council of India,
Rep., by its Registrar,
Pocket - 14, Sector - 8 Dwarka Phase-1,
New Delhi 110 077
- 4) National Board of Examinations,
Rep. by its Executive Director,
Medical Enclave, Ansari Nagar,
Mahatma Gandhi Marg (Ring Road),
New Delhi 110 029

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Declaration, to declare clause 5[a] of the notification issued by the first respondent to admission to Higher Speciality [D.M/M.Ch] courses in Tamil Nadu for 2017-2018 session in respect of super speciality courses in the Government Medical College in Tamil Nadu insofar as the petitioner is concerned is null and void and consequently direct the respondents 1 and 2 to admit the petitioner in Stanley Medical College, Chennai to super speciality courses in terms of the provisional allotment letter dated 07.08.2018.



WEB COPY

For Petitioner : Mr.S.Vijayakumar

For RR 1 & 2 : Mr.A.Selvendran,
Government Advocate

For R-3 : M/s.S.Shubharanjani Ananth,
Standing counsel

For R-4 : Mr.V.P.Raman

O R D E R

This Court, passed the following order on 18.08.2021.

"This writ petition was filed challenging Clause 5(a) of the notification issued by the first respondent for admission to Higher Specialty [D.M/M.Ch] courses in Tamil Nadu for 2017-18 session in respect of super speciality courses in the Government Medical College in Tamil Nadu which required the petitioner to execute a bond.

2.During the pendency of the writ petition, the stipulation with regard to execution of bond was upheld by the Hon'ble Supreme Court. Therefore, nothing survives in this writ petition insofar as the main relief that was sought for by the petitioner. Through Government letter dated 09.10.2020, non-service candidates will have to execute a bond for two years or in the alternative to pay a sum of Rs.50 Lakhs.

3.The petitioner has undergone the M.Ch (Surgical Gastroenterology) course at Stanley Medical College, Chennai. By virtue of the interim order passed by this Court, till date, the petitioner has not executed the bond.

4.The learned counsel for the petitioner made a mention before this Court to take up the writ petition in view of the urgency since, the exams are going to be held and the Hall ticket of the petitioner has been withheld by the respondent due to non-execution of the bond.

5.Taking into consideration the facts and circumstances of the case and considering the fact that the petitioner has undergone the course and it



WEB COPY

should not go waste, the following interim directions are issued by this Court:

- a) The petitioner is directed to execute the agreement bond through his Professor and Head of the Department before the Dean, Stanley Medical College, Chennai by tomorrow.
- b) The terms and conditions require that surety must be given by two Government servants who are equivalent to the cadre of the petitioner or above his cadre. In view of the urgency, the petitioner may not be able to get two Government servants by tomorrow. Therefore, as an interim measure, the Head of the Department and one of the parent of the petitioner shall stand as a surety for the present, when the bond is executed tomorrow.
- c) Immediately on the execution of the bond, the hall ticket shall be furnished to the petitioner to enable the petitioner to write the examinations which is commencing on 23.08.2021 and
- d) The petitioner shall make arrangements to get two Government sureties since it is a mandatory requirement and they shall be made as a surety in the bond executed by the petitioner. This process shall be completed by the petitioner, within a period of four weeks from the date of receipt of copy of this order.

6. Post this case under the caption 'For Passing Further Orders' on 15.09.2021 at 2.15 p.m."

2. The matter was again taken up for hearing on 15.09.2021 and the following order was passed by this Court.

" In view of the orders passed by this Court, it is reported that the petitioner was allowed to write the examinations. The petitioner has filed an affidavit to the effect that he is not in a position to get 2 government servants to stand as sureties for the bond executed by him. On the alternative, the petitioner has come up with an offer to give bank guarantee for a sum of Rs.50 lakhs in favour of the third respondent. The learned counsel for the petitioner submitted that the petitioner will comply



WEB COPY

with the condition imposed in the bond and in the remote chance of the petitioner failing to comply with the same, the 3rd respondent can always invoke the bank guarantee. The learned Government Counsel seeks time to take instructions.

2. Post this case under the same caption at 2:15 p.m. on 20.09.2021."

3. The matter was adjourned twice thereafter to enable the Government Counsel to take written instructions on the offer made by the petitioner.

4. When the matter was taken up for hearing today i.e., on 06.10.2021, the learned Government Counsel produced the written instructions received from the second respondent. On going through the written instructions, it is seen that the second respondent has accepted the offer made by the petitioner and based on the same, final orders are passed in this writ petition.

5. Taking into consideration the facts and circumstances and the subsequent developments that took place after filing of the writ petition, the offer that was made by the petitioner to furnish Bank Guarantee equivalent to the bond amount and acceptance of this offer by the second respondent, this Writ Petition is disposed of with the following directions:-

(a) The petitioner is directed to execute the Bank Guarantee in favour of the second respondent equivalent to the bond amount of Rs.50,00,000/- (Rupees Fifty Lakhs only) within a period of two (02) weeks from the date of receipt of a copy of this order;

(b) The petitioner shall comply with the bond conditions and if there is any violation, it is left open to the second respondent to invoke the Bank Guarantee and

(c) Once the petitioner complies with the Bond conditions and completes the stipulated period of government service, the second respondent is directed to return the Bank Guarantee and thereafter, the same can be cancelled by the petitioner.

6. The learned counsel for the petitioner submitted that the stipend has not been paid to the petitioner and therefore, sought for a direction to the respondents to pay the arrears of stipend to the petitioner.



7. The issue that has been brought up by the learned counsel for the petitioner has nothing to do with the issue on hand. If no stipend has been paid to the petitioner since the bond was not executed by the petitioner, it is left open to the petitioner to work out his remedy by making a representation to the concerned Authorities and redress his grievance. This issue will not be gone into in the present writ petition.

8. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

sts

To:

- 1) The Secretary,
Department of Health and Family Welfare,
Fort St.George, Chennai 600 009
- 2) The Directorate of Medical Education,
P.H.Road, Kilpauk, Chennai 600 010
- 3) The Registrar,
Medical Counsel of India,
Pocket-14, Sector-8,
Dwarka Phase-1
New Delhi-110 077
- 4) The Executive Director,
National Board of Examination,
Medical Enclave, Ansari Nagar,
Mahatma Gandhi Marg (Ring Road)
New Delhi - 110 029.

+1CC to Mr.S.Vijayakumar, Advocate, Sr.No.52355

Order made in
W.P.No.20847 of 2018

AJS (CO)
SU (07.10.2021)