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IN THE HIGH COURT OF JUDICATURE AT MADRAS

ORDERS RESERVED ON : 31.08.2021

PRONOUNCING ORDERS ON : 01.09.2021

CORAM

THE HONOURABLE JUSTICE MR.N.ANAND VENKATESH

W.P.No.16886 of 2021

Dr.Priyadharshini A. M. D.(Microbiology)

NO. 75 F2 Mahalakshmi Apartment

Mandapam Link Road Krishna Nagar

Ullagaram Chennai - 91.

...Petitioner

.Vs.

1. The State of Tamil Nadu
Rep by its Secretary
Department of Health & Family Welfare
Secretariat Fort St. George
Chennai - 600 009.
- 2 The Director
Directorate of Medical Education
156, Poonamallee High Road
Kilpauk
Chennai - 600 010.
- 3 The Director
Directorate of Public Health &
Preventive Medicine
Chennai - 600 006.
4. The Dean
Madras Medical College,
Chennai 600 003.

..Respondents

PRAYER: Writ Petitions filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, Calling for records of the 2nd respondent's impugned Letter bearing No. 54326 / ME2 / 1 / 2021 dated 20.07.2021 and quash the same as illegal and further direct the 4th respondent authority to return all original certificates of the Petitioner that were submitted by her at the time of her admission to MD (Microbiology) course during the year 2016 at the 4th Respondent college along with her original Post Graduation Certificates.



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For Petitioner : Mr.R.Arumugam

For Respondents: Mr.A.Selvendran

Government Advocate

for R 1 to R 3

ORDER

This writ petition has been filed challenging the impugned letter dated 20.07.2021, issued by the 2nd respondent and for a consequential direction to the 4th respondent to return back all the original certificates of the petitioner that were submitted by her at the time of her admission in the Post Graduation Course [P.G.course] in the year 2016.

2.The case of the petitioner is that she completed her MBBS degree in the year 2009 and was registered before the Tamil Nadu Medical Council on 11.05.2009. She appeared in the entrance examination for the P.G.course in the year 2016 and she successfully got admission in M.D.(Microbiology) course in the 4th respondent college.

3.While the petitioner joined the P.G. course, she submitted all the original certificates. The 4th respondent also obtained a bond from the petitioner at the time of admission to the P.G. course which stipulates that on completion of the course, the petitioner is liable to serve the Government of Tamil Nadu on request for not less than two years or in the alternative to pay Rs.40 lakhs as the bond amount.

4.The petitioner completed the P.G. course on 30.05.2019. According to the petitioner, she was not given any appointment order for more than two years. It is stated that the petitioner had in fact made a representation to the 2nd respondent to give her appointment order / posting order to enable the petitioner to join duty and serve as per the bond condition. In spite of the same, no appointment order was given to the petitioner. The petitioner made a representation on 15.06.2021 to the 2nd respondent seeking for returning of her original certificates. The said request made by the petitioner was rejected through the impugned letter dated 20.07.2021. Aggrieved by the same, the present writ petition has been filed before this court.



5. When the matter was taken up for hearing on 12.08.2021, this court passed the following order:

"Mr.A.Selvendran, learned Government Advocate takes notice for the respondents.

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2. It is seen from the impugned letter dated 20.07.2021 that the petitioner has been issued an appointment and posting order dated 18.10.2019 and the stand taken is that in spite of issuing such an appointment order, she did not joint duty in the posted place. Learned counsel for the petitioner has taken a very specific stand that no such appointment order was issued to the petitioner.

3. Learned Government Advocate appearing on behalf of the respondents shall take instructions and report before this Court. Post this case immediately after admission on 16.08.2021".

6. Thereafter, the matter was taken up for hearing on 24.08.2021 and this Court passed the following order:

"Pursuant to the orders passed by this Court, the original file was produced before this Court. It is seen from the original file that the appointment order has been sent to nearly 147 Doctors through Speed Post and the appointment orders were issued through proceedings dated 18.10.2019. The Serial Number of the petitioner in the appointment order is SL.No.93. The address that has been mentioned therein is No.48, Anna Road, Block-25, Neyveli - 607 803. The specific case of the petitioner is that she has left Neyveli 5 years back and she is presently residing at Chennai. Even in the proforma that was given by the petitioner when she was asked for preference of colleges for posting, the address for communication specifically mentions the Chennai address at Column No.8. That apart even in the agreement bond that was executed by the petitioner, only the Chennai address has been given. It is not known as to why the appointment order was not sent to the Chennai address. Even otherwise, it must be seen if the respondents were able to serve the appointment order on the petitioner, when it was sent to the Neyveli address. The reason why this Court wants to ascertain the same is because the petitioner has sent representation to the 2nd respondent even on 23.01.2020 requesting for issuing the posting order and the grievance of the



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petitioner is that inspite of the receipt of the same, no posting order was issued to her. In the mean time, the two years period came to a end and hence the present Writ Petition has been filed before this Court.

2. The original file does not have any material to show that the appointment order was served at Neyveli. The concerned officials from the 3rd respondent department were also present before this Court. They sought for sometime to produce the acknowledgment for the receipt of the appointment order at the Neyveli address. Post this case under the same caption on 31.08.2021".

7. When the matter was taken up for hearing today, the learned Government Counsel submitted the file containing the registered speed post that was sent to the petitioner. The learned Government Counsel submitted that they are not able to get the acknowledgement since it is maintained only for 18 months and now already 22 months had lapsed. The learned Government Counsel submitted that the petitioner is not entitled to take advantage of the orders passed by the Division Bench in W.A.No.799 of 2019 and seeks for a direction from this court to direct the petitioner to join duty immediately and to serve as per the bond condition.

8. The learned counsel for the petitioner submitted that the petitioner was always willing to serve as per the bond condition if the posting orders had been issued to her. The learned counsel submitted that the posting order was sent to the old address in spite of the fact that the petitioner had shifted to Chennai and the same was also informed to the respondents. The learned counsel submitted that the respondents have not offered employment for more than two years and therefore, the petitioner is entitled for the benefit as per the judgment of the Division Bench in W.A.No.799 of 2019.

9. In the considered view of this court, this is a clear case where two departments coming under the Health and Family Welfare Department were functioning without any co-ordination. The proforma application must be given by the petitioner before the 2nd respondent and based on the same, the 2nd respondent must forward the same to post the petitioner in the hospital chosen by her and accordingly, the 3rd respondent should have issued the appointment order. In the present case, the appointment order was prepared by the 3rd respondent and sent to the old address and the 2nd respondent in spite of receiving the



proforma from the petitioner does not seem to have forwarded the same to the 3rd respondent. Therefore, the 3rd respondent was not aware of the new address of the petitioner. The 3rd respondent has proceeded to send the appointment order to the Neyveli address based on the particulars submitted by the petitioner at the time of joining the P.G.course.

10.The issue is as to whether the petitioner was offered employment within a period of two years after completing the P.G.course. For this purpose, it will be relevant to extract para 104 of the Division Bench order in W.A.No.799 of 2019 etc., batch, dated 06.10.2020, hereunder:

"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 otherwise, as well as the date of expiry of two years, in order to avoid any confusion on this count".

11.It is clear from the above that there must be an offer for employment within a period of two years from the date of completion of the P.G.course. In the present case, there was an offer of employment, but however, due to the change of address, it was probably not able to be served on the petitioner. This was primarily due to the fact that there was no proper co-ordination between the 2nd and 3rd respondents.

12.In the considered view of this court, the petitioner should not be allowed to take advantage of a procedural lapse due to improper co-ordination between the 2nd and 3rd respondents. The State Government spends a lot of money towards every student who undergoes the P.G.course and the only way to reap the benefit from them is to make them serve in the Government Hospitals for a period of two years. There are many



instances where the students try their best to get over the bond conditions and ultimately, they pursue with their future and the State Government is left high and dry. This has been sufficiently discussed in the Division Bench judgment in W.A.No.799 of 2019.

13.This court has also taken into consideration the pandemic situation that is prevailing in the State of Tamil Nadu and the dire need of the services of doctors required in many hospitals across Tamil Nadu. The petitioner has to take into consideration the prevailing situation and she has to serve in the Government Hospital of her preference. In the prevailing situation, serving in the Government Hospital should be given utmost priority. This court does not want the petitioner to wriggle out of the bond condition because of some procedural lapses on the part of the 2nd and 3rd respondents. The petitioner has to necessarily serve during these difficult times.

14.In view of the above, this court is not inclined to interfere with the impugned letter dated 20.07.2021, issued by the 2nd respondent and accordingly, this writ petition is dismissed. There shall be a direction to the 3rd respondent to issue the appointment order to the petitioner within a period of one week from the date of receipt of copy of this order. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

KP
To

1. The Secretary,
The State of Tamil Nadu,
Department of Health & Family Welfare,
Secretariat Fort St. George,
Chennai - 600 009.
- 2 The Director,
Directorate of Medical Education,
156 Poonamallee High Road,
Kilpauk,
Chennai - 600 010.



3 The Director,
Directorate of Public Health &
Preventive Medicine,
Chennai - 600 006.

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4. The Dean,
Madras Medical College,
Chennai 600 003.

+1cc to Mr.R.Arumugam, Advocate Sr.43743

W.P.No.16886 of 2021

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srg 01/09/2021