



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.03.2021

CORAM

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P. (MD)No.6424 of 2021

and

W.M.P. (MD)No.5030 of 2021

Dr.Priya Sreeraj

: Petitioner

Vs.

1.The Principal Secretary to Government,
Health and Family Welfare Department,
Secretariat, Fort St.George,
Chennai - 600 009.

2.The Secretary,
The Selection Committee,
Directorate of Medical Education,
Kilpauk, Chennai - 600 010.

3.The Academic Officer,
Tamilnadu Dr.M.G.R. Medical University,
69, Anna Salai, Guindy, Chennai - 600 032.

4.The Dean,
Thanjavur Medical College,
Medical College Road, Thanjavur - 613 004.

: Respondents

PRAYER:- Petition filed under Article 226 of the Constitution of India seeking a Writ of Declaration, to declare the Clause-51A of the prospectus and notification for II phase counseling published in the internet for Tamilnadu Super Specialty P.G.Degree/3Years D.M.,/M.Ch., Course Admission for the year 2016-2017 in so far as the Payment of discontinue the course as ultravires to the constitution of India in pursuant to G.O.Ms.No.772, Health and Family Welfare (ME) Department dated 16.06.2016 and consequently, to direct the second respondent to refund the discontinuation fees of Rs.5,00,000/- (Rupees Five Lakhs only) paid by the petitioner.

For Petitioner
For Respondents

:Mr.KA.Ramakrishnan
:Mr.C.Ramesh
Special Government Pleader

**ORDER**

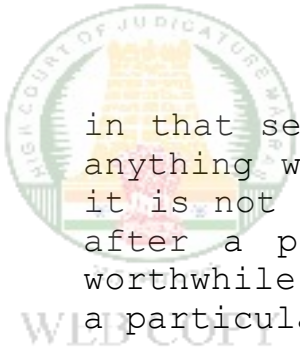
The case of the petitioner is that she was originally a Graduate of Medicine having completed the course in 2009 itself. Thereafter, she had studied Post Graduate in Medicine and completed the same in Coimbatore Medical College, Tamilnadu from 28.05.2012 to 27.05.2015, successfully. Thereafter, the petitioner appears to have responded to a notification published by the Government of Tamilnadu for admission as a non service candidates for Super Speciality courses for the year 2016-17 and the petitioner appears to have been allotted the Super Speciality Course on 19.08.2016 in the fourth respondent College.

2. When the petitioner was admitted to the Super Specialist course, a condition was incorporated in the prospectus, namely, that in case of discontinuance of any candidature in respect of the petitioner's course is concerned, a discontinuation fees of Rs.5,00,000/- to be paid. The relevant clause in the prospectus, namely, Clause 51(a)(b) has been invoked in the case of the petitioner in 2018, as she had discontinued the course for her personal reason. Being aggrieved by the Clause-51(a) of the prospectus in the notification issued by the respondents for the year 2016-17, the present Writ Petition has been filed by the petitioner herein.

3. This Court is not inclined to entertain this Writ Petition for more than one reason. Firstly, the petitioner has not chosen to give any kind of explanation in the affidavit, as to why she has taken more than four years to come up with the challenge, when the factum of discontinuance had taken place in 2016 itself and the petitioner suffered from the payment of discontinuance fees as stated in the prospectus under Clause-51(a). In the absence of any explanation, this Writ Petition is to be dismissed on the ground of laches.

4. Even otherwise, when the petitioner has sought admission, despite a condition stated in the prospectus and having accepted such condition with conscious mind under eyes wide open, the petitioner is estopped from challenging the such condition, after being admitted under the same prospectus. The Court normally would not intervene such conditions, unless those conditions are found to be opposed to the public policy or extremely onerous, which cannot be countenanced in law.

5. In this case, the discontinuation fees has been prescribed with certain objectives, as the Colleges would lose seats for that particular academic year, if any candidate discontinued in the middle, thus preventing another potential candidate to be admitted



in that seat. Therefore, this Court does not think that there is anything wrong in prescription of such condition. In any event, it is not for the petitioner to challenge such condition leisurely after a period of four years and this Court does not see any worthwhile grounds raised in this Writ Petition for declaration of a particular clause as illegal.

6.For the aforesaid reasons, this Writ Petition is dismissed on the ground of laches and on merits. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(AS)

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/ /2021

Sub Assistant Registrar(CS)

To

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+1 CC to M/s.SPL GP (SR-13286[F] dated 24/03/2021)

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ES(CO)

AS(12.05.2021) 3P 6C

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