



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.DURAI SWAMY

AND

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

W.A(MD)No.1581 of 2021

and

C.M.P(MD)No.6684 of 2021

Priya Sreeraj

... Appellant / 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,
Tamil Nadu 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 / Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent against the order, dated 23.03.2021 made in W.P(MD)No.6424 of 2021 on the file of this Court.

Prayer in WP(MD). 6424/ 2021 :

Petition filed under Article 226 of the Constitution of India, praying this Court To issue 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 discountinue the course as ultravires to the constitution of India in pursuant to G.O.Ms.No.772



Health and Family Welfare (ME) Department dt 16.06.2016 and consequently direct the 2nd respondent to refund the discontinuation fees of Rs.5,00,000/- (Five Lakhs only) paid by the petitioner.

For Appellant : Mr.KA.Raamakrishnan

For Respondents : Mr.P.Thilak Kumar
Standing Counsel for the Government

JUDGMENT

(Judgment of the Court was delivered by
M.DURAISWAMY, J.)

Challenging the order, dated 23.03.2021 passed in W.P(MD) No.6424 of 2021, the writ petitioner has filed the above Writ Appeal.

2.The appellant filed the Writ Petition to issue a Writ of Declaration, to declare the Clause-51A of the prospectus and Notification for II phase counseling published in the internet for Tamil Nadu Super Speciality P.G Degree / 3 years D.M., / M.Ch., Course Admission for the year 2016-17 insofar 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 her.

3.The appellant completed the Graduate in Medicine in the year 2009. Thereafter, she completed the Post Graduate in Medicine in the year 2015. Subsequently, the appellant responding to a Notification published by the Government of Tamil Nadu for admission as a non-service candidate for the Super Speciality course for the year 2016-17 and was allotted the Super Speciality course on 19.08.2016 in the fourth respondent College.

4.When the appellant was admitted to the Super Speciality course, a condition was incorporated in the prospectus to the effect that in case of discontinuance of any candidature in respect of the petitioner's course is concerned, discontinuation fee of Rs.5,00,000/- should be paid. On 26.08.2016, the appellant had discontinued the course invoking Clause 51(a)(b) and she was relieved on 31.08.2016. Aggrieved over the Clause-51(a) of the prospectus issued in the year 2016-17, the appellant filed the Writ petition.

5.On a perusal of the materials available on record, it could be seen that as early as on 19.06.2017, the request for refund was
<https://hcservices.ecourts.gov.in/hcservices/>



declined by the authorities. In spite of the rejection of the request, the appellant chose to file the Writ Petition only in the year 2021. The appellant has not explained the reason for laches in filing the writ Petition.

6. It is settled position that if a person is aggrieved over any order, the same should be challenged at the earliest point of time. That apart, the appellant had knowledge about the condition imposed in the prospectus and in spite of the same, she had joined the Super Speciality course. Having accepted the conditions imposed in the prospectus, the appellant cannot turn around and subsequently, contend that the same cannot be applied to her case.

7. The learned Single Judge, taking into consideration all these aspects, has rightly dismissed the Writ Petition. We do not find any ground to interfere with the order passed by the learned Single Judge. The Writ Appeal is liable to be dismissed. Accordingly, the Writ Appeal is dismissed. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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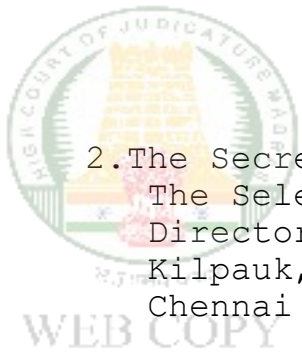
Note :

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

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+1 CC to M/s.GP (SR-26523[F] dated 17/08/2021)

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MGJ(25.08.2021) 4P 6C