



WEB COPY

W.A(MD)No.1590 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.DURAI SWAMY

AND

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

W.A(MD)No.1590 of 2021

and

C.M.P(MD)No.6762 of 2021

Dr.T.Rajakumari

... Appellant / Petitioner

Vs.

1.The State of Tamil Nadu,  
Represented by its Secretary,  
Health and Family Welfare Department,  
Fort St. George,  
Chennai - 2.

2.The Director of Medical Education,  
Kilpauk,  
Chennai.

... Respondents / Respondents

**Prayer:** Writ Appeal filed under Clause 15 of the Letters Patent against the order, dated 06.07.2021 made in W.P(MD)No.14969 of 2018 on the file of this Court.

**Prayer in WP(MD). 14969/ 2018 :**

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Certiorari calling for the records relating to the impugned order passed by the 2nd respondent in his proceedings Ref.No.13381/ME1/1/2014 dated 12.06.2018 and quash the same as illegal and arbitrary in so far as the instructions relating to conducting of practical examination and issuance of certificates to the candidates who have allegedly completed six months of USG Training.

For Appellant : Mr.B.Saravanan

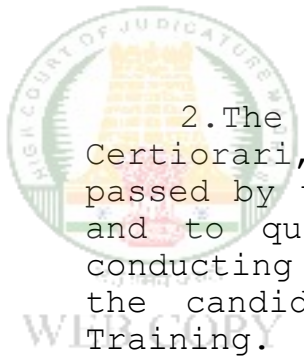
For Respondents : Mr.P.Thilak Kumar  
Standing Counsel for Government

**JUDGMENT**

(Judgment of the Court was delivered by

**M.DURAI SWAMY, J.)**

Challenging the order, dated 06.07.2021 passed in W.P(MD) No.14969 of 2018, the writ petitioner has filed the above Writ Appeal.



2.The appellant filed the Writ Petition to issue a Writ of Certiorari, to call for the records relating to the impugned order passed by the second respondent in his proceedings dated 12.06.2018 and to quash the same insofar as the instructions relating to conducting of practical examination and issuance of certificates to the candidates who have allegedly completed six months of USG Training.

3.The appellant challenged the Notification issued by the second respondent through the proceedings dated 12.06.2018.

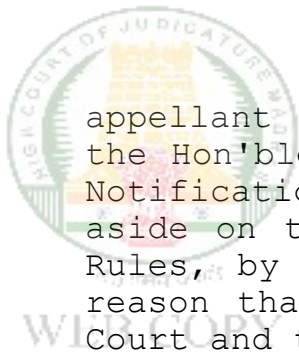
4.The case of the appellant is that the Pre-Natal Diagnostic Techniques (Regulation and Prevention of Misuse) Amendment Act, 1994, was brought into force with the primary object to prevent sex selection before or after conception. The Rules were also framed in the year 1996. The Act specifically provides under Section 2(P) that a sonologist or the imaging speciality means a person who possesses any one of the medical qualification recognized under the Indian Medical Council Act, 1956 or who possesses a Post Graduate qualification in ultra-sonography or imaging techniques or radiology. The Rules also provides for a six months training in the manner prescribed under the Rules to qualify under Section 2(P) and according to the appellant, this was running counter to the main provision in the Act. Rule 3(3)(1)(b) of the Rules became a subject matter of the challenge before the Delhi High Court and by order, dated 17.02.2016, the Delhi High Court struck down the Rules as *ultra vires*. The order passed by the Delhi High Court was challenged before the Hon'ble Supreme Court of India in SLP(C)Nos.16657-16659 of 2016 and the Hon'ble Supreme Court, by order, dated 14.03.2018, stayed the operation of the order of the Delhi High Court, dated 17.02.2016.

5.Mr.B.Saravanan, learned counsel appearing for the appellant submitted that the SLP is pending before the Hon'ble Supreme Court.

6.Pursuant to the order passed by the Hon'ble Supreme Court, the second respondent issued a Notification, dated 12.06.2018 to issue certificate to the candidates, who have completed six months of Ultra Sonography Training. Challenging the said Notification, the petitioner has filed the Writ Petition.

7.The learned Single Judge, taking into consideration the case of both parties, dismissed the Writ Petition finding that the appellant should await the final orders of the Hon'ble Supreme Court which will decide the fate of the relevant Rules.

8.When the issue is pending before the Hon'ble Supreme Court and that the Apex Court has also granted an interim stay of the order passed by the Delhi High Court which struck down the Rule as *ultra vires*, the Notification issued by the second respondent is proper and rightly observed by the learned Single Judge, the



appellant should await the final orders in the SLPs pending before the Hon'ble Supreme Court. The contention of the appellant that the Notification issued by the second respondent is liable to be set aside on the ground that the Delhi High Court has struck down the Rules, by its order, dated 17.02.2016 cannot be sustained for the reason that the said order has been stayed by the Hon'ble Supreme Court and the order of stay is in force as of today.

10. In such view of the matter, we do not find any ground to interfere with the order passed by the learned Single Judge. The Writ Appeal is devoid of merits and the same is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

ps

**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

1. The Secretary,  
Health and Family Welfare Department,  
Fort St. George,  
Chennai - 2.

2. The Director of Medical Education,  
Kilpauk,  
Chennai.

+1 CC to M/s.B.SARAVANAN, Advocate ( SR-26659[F] dated 18/08/2021 )

+1 CC to M/s.GP ( SR-26768[F] dated 19/08/2021 )

**W.A(MD)No.1590 of 2021  
18.08.2021**

RK (31.08.2021) 3P 5C