

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.01.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.147, 151 and 154 of 2022

Dr.S.Raja ... Petitioner in W.P.No.147/2022

Dr.V.Rama ...Petitioner in W.P.No.151/2022

Dr.B.Ragavendar ...Petitioner in W.P.NO.154/2022

Vs.

1.The Secretary to Government of Tamilnadu,
Health and Family Welfare Department,
Secretariat, Chennai 600 009.

2.The Director of Medical Education,
No.162, EVR Periyar Salai,
Kilpauk, Chennai 600 010.

3.Director of Medical and Rural Health Services,
No359, Anna Salai,
Chokkalingam Nagar,
Chennai 600 006.

...Respondents 1,2 & 3 in all petitions

4.The Dean,
Coimbatore Medical College and Hospital,
Coimbatore 641 018.

5.The Director,
All India Institute of Medical Sciences,
Basni Industrial Area Phase 2,
Jodhpur,
Rajasthan 342 005.

... Respondents 4 & 5 in W.P.No.147/2022

4.The Dean,
Madras Medical College,
Chennai 600 001.

5.The Director,
Post Graduate Institue of Medical Education and
Research, PGIMER, Sector 12,
Chandigarh 160012.

... Respondents 4 & 5 in W.P.No.151/2022

4.The Dean,
Madras Medical College,
Chennai 600 001.

5.The Director,
Jawaharlal Institue of Post Graduate,
Medical Education and Research,
JIPMER Campus Road, Gorimedu,
Dhanvantari Nagar,
Puducherry 605 006.

... Respondents 4 & 5 in W.P.No.154/2022

Prayer in W.P.No.147/2022: Petitions filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records of the 1st respondent in G.O.Ms.No.185, Health and Family Welfare (MCA1) Department dated 13.04.2020 and quash the condition found in Clause 4 relating to submission of Bank Guarantee as illegal and arbitrary and in consequence thereof direct the 4th respondent to return the original certificates to the petitioner on executing an extension bond by the petitioner without insisting of Bank Guarantee, in order to produce the same before the 5th respondent for pursuing Doctorate of Medicine in Critical Care Medicine, under the All India Quota at All India Institute of Medical Sciences, Jodhpur.

Prayer in W.P.No.151/2022: Petitions filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records of the 1st respondent in G.O.Ms.No.185, Health and Family Welfare (MCA1) Department dated 13.04.2020 and quash the condition found in Clause 4 relating to submission of Bank Guarantee as illegal and arbitrary and in consequence thereof direct the 4th respondent to return the original certificates to the petitioner on executing an extension bond by the petitioner without insisting of Bank Guarantee, in order to produce the same before the 5th respondent for pursuing Doctorate of Medicine in Nephrology, under the All India Quota at Post Graduate Institute of Medical Education and Research (PGIMER), Chandigarh on 07.01.2022.

Prayer in W.P.No.154/2022: Petitions filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records of the 1st respondent in G.O.Ms.No.185, Health and Family Welfare (MCA1) Department dated 13.04.2020 and quash the condition found in Clause 4 relating to submission of Bank Guarantee as illegal and arbitrary and in consequence thereof direct the 4th respondent to return the original certificates to the petitioner on executing an extension bond by the petitioner without insisting of Bank Guarantee, in order to produce the same before the 5th respondent for pursuing Doctorate of Medicine in Neurology, under the All India Quota at Jawaharlal Institue of Post Graduate Medical Education and Research, Pondicherry on

07.01.2022.

For Petitioner
in all petitions : Mr.Sriram
for B.Sanjay Balachandar

For RR1 in all petitions : Ms.Shubu Ranjani Ananth

For RR2 to RR5 in all petitions: Mr.C.Jayaprakash
Government Advocate

C O M M O N O R D E R

These Writ Petitions have been filed challenging the Government Order issued by the 1st respondent in G.O.M.S. No. 185 dated 13.4.2020 and for a consequential direction to the respondents to return the original certificates/marksheets belonging to the petitioners in order to enable the petitioners to join in the Super Specialty course.

2.When the matter was taken up for hearing today, learned Government Advocate appearing on behalf of Respondents 2 to 5 submitted that the petitioners have executed bonds for a sum of Rs. 40 lakhs (each) with an undertaking that the petitioners will work in the Government Hospital for 2 years. The learned Government Advocate further submitted that the petitioners have not rendered any service after the completion of the PG Course and hence, the petitioners will have to complete services in a Government Hospital for 24 months (2 years). The learned Government Advocate further submitted that the petitioners are requesting for handing over the certificates in order to enable the petitioners to join the special course. In order to consider the request made by the petitioners, the petitioners will have to give an undertaking to give a bank guarantee for a sum of Rs. 40,00,000/- (Rupees forty lakhs only) each in favour of the 4th respondent College. On such furnishing of bank guarantee, the certificates will be handed over to the petitioners and the petitioners after the completion of special course, will have to return back the original certificates and complete the service as undertaken in the bond.

3. The learned counsel for the petitioners submitted that the petitioners are not in a position to furnish the bank guarantee for the entire amount demanded by the respondents, since it requires an equal amount to be kept in deposit and the petitioners does not have the financial wherewithal to arrange for such a huge amount. The learned counsel submitted that with very great difficulty, the petitioners will somehow arrange for funds and give a Bank guarantee for sum of Rs. 25,00,000/- each in favor of the college, which will have a validity period of 37 months from the date of admission in the Super specialty course. The learned counsel further submitted

that the petitioners will issue a post dated cheque for sum of Rs. 15,00,000/- each in favor of the college. The learned counsel submitted that the petitioners will fill up the amount and also sign the cheque and will leave the date open. The learned counsel further submitted that considering the financial constraints faced by the petitioners, the request made by the petitioner can be considered by this Court. The Learned Counsel further submitted that the petitioners undertake to rejoin the service within a period of 15 days from the date of the completion of special course. If the petitioners fail to do so, the Bank Guarantee can be invoked and the cheque can be presented after filling the date. The Learned counsel assured that such a contingency will not arise in this case since the petitioners want to genuinely complete the government service after the completion of the special course.

4.This Court has carefully considered the submissions made on either side and has taken note of subsequent developments that has taken place in this case.

5.This Court has to strike a balance and ensure that the petitioners are not prevented from pursuing further with his higher studies and at the same time, the respondents are also not deprived of utilizing the services of the petitioners as per the bond condition. In this case, the petitioners are not in service after the completion of the PG Course. Therefore, there has to be some assurance from the petitioners to make them come back and complete their service as per the bond condition. This assurance can be ensured by taking sufficient security from the petitioners by way of bank guarantee and post dated cheque. This Court believes that the petitioners will not go back on their words and they will come back after completing the special course and render the service as per the bond condition.

6.The petitioners have requested this Court to give a bank guarantee for a sum of Rs. 25,00,000/- each and for giving post dated Cheque for the balance sum of Rs. 15,00,000/- each. Considering the financial constraints expressed by the petitioners, this Court is inclined to accept the request made by the petitioners. This Court has also taken into consideration the fact that the petitioners are a meritorious student.

7.In view of the above, there shall be a direction to the petitioners to issue bank guarantee in favor of the 4th respondent for a sum of Rs. 25,00,000/-. The bank guarantee shall have a validity period of 37 months from December 2021. The petitioners shall also issue a cheque in favor of the 4th respondent, duly signed and amount filled up to the tune of Rs.15,00,000/-. The date shall be left blank in order to ensure that the cheque will be put to use at the appropriate time if in case, the petitioners do not fulfill the

undertaking. Immediately after the petitioners fulfill these two conditions, the 4th respondent shall handover all the original certificates to the petitioners to enable the petitioner to join the special course.

8.The petitioners shall rejoin service within a period of 21 days from the date of completion of special course. The petitioners shall hand over all the certificates at the time of rejoining and they shall complete the balance period of service. Immediately on rejoining, the cheques issued by the petitioners as guarantee shall be returned back to the petitioners.

9.These Writ petitions are disposed of with above directions. No costs.

Sd/-

Assistant Registrar (Digit)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Secretary to Government of Tamilnadu
Health and Family Welfare Department,
Secretariat, Chennai 600 009.
- 2.The Director of Medical Education,
No.162, EVR Periyar Salai,
Kilpauk, Chennai 600 010.
- 3.Director of Medical and Rural Health Services,
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Post Graduate Institue of Medical Education and
Research, PGIMER, Sector 12,
Chandigarh 160012.

8.The Director,
Jawaharlal Institute of Post Graduate,
Medical Education and Research,
JIPMER Campus Road, Gorimedu,
Dhanvantari Nagar,
Puducherry 605 006.

+3cc to Mr.B.Sanjay Balachandar, Advocate, S.R.No.1224 to 1226
+1cc to the Government Pleader, S.R.No. 1604

W.P.Nos.147, 151 and 154 of 2022

GSM(CO)
GN(11/01/2022)