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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.03.2022

CORAM :

THE HON'BLE MR.MUNISHWAR NATH BHANDARI, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.A.No.611 of 2022 and CMP No.4336 of 2022

D.M.Arasi

... Appellant

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 Dean
Govt. Kilpauk Medical college
Chennai - 600 010.

... Respondents

Prayer: Appeal filed under Clause 15 of the Letters Patent against the order dated 04.02.2022 in W.P.No.1665 of 2022.

Prayer in W.P. No.1665 of 2022:

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the 2nd and 3rd respondent Authorities to return all original certificates of the petitioner that were submitted by her at the time of her admission to M.D. (Psychiatry) course during the year 2016 at the 3rd respondent college along with his Post Graduation Certificates.



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For the Appellant : Mr.R.Arumugam

For the Respondents: Mr.K.M.D.Muhilan
Government Advocate
for respondent 1

JUDGMENT

(Delivered by the Hon'ble Chief Justice)

By this writ appeal, a challenge has been made to the order dated 04.02.2022, whereby, the writ petition preferred by the appellant was disposed of with appropriate directions.

2. It is a case where the appellant took admission in the Post Graduate course and for that on furnished a bond. After completion of the course, the appellant was under an obligation to serve the respondent institution for two years. Accordingly, an order of appointment was issued to the appellant on 25.09.2019 and she was posted at the Government Hospital, Manamadurai, Sivagangai District. The appellant did not join the service, after completion of the course, for two years, but has filed the writ petition seeking direction to the respondents to release her documents on the ground that in the intervening period, no order of appointment was given to her and therefore, she was not in default in taking the service pursuant to the bond executed by her.

3. Learned Government Advocate produced the order of the Director of Public Health and Preventive Medicine dated 02.03.2022 to show that the appellant was given appointment immediately on completion of the course in the year 2019 itself and she did not join the post and serve the institution for a period of two years, for which, the bond was executed and accordingly, she became liable for the consequences for flouting the bond.

4. The learned Single Judge, in order to save the appellant, passed an appropriate order directing the respondents to issue an order of appointment within a week from the date of copy of the order. On receipt of the same, the appellant was directed to join the service within a period of two weeks. However, instead of obeying the direction given by the Court to settle the issue, a challenge to it has been maintained by way of writ appeal, though in compliance of the impugned order, an appointment order was issued on 02.03.2022 by the respondents.



5. Learned counsel for the appellant submits that no order of appointment was ever given to the appellant, whereas the respondents have produced a copy of the order of appointment issued to the appellant.

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6. In view of the above, this Court, if has to draw a conclusion on the fact that the order of appointment was issued or it was not issued, need to record a finding of fact which is not within the domain under Article 226 of the Constitution of India. We otherwise do not find any reason for the respondents to create an order of appointment subsequently, as it has otherwise been issued by an officer of the Government, that is, the Director of Public Health and Preventive Medicine. The appellant, after getting admission by furnishing a bond to serve the institution for a period of two years on completion of the course, has failed to serve the institution, especially when huge amount is incurred for imparting Post Graduate course in medicine. It is minimum expected from the candidates to serve the institution at least for two years and only for that reason, a bond is required to be furnished. The object would fail if the medical practitioner or the student would not obey the condition of the bond.

7. The learned Single Judge, taking note of the above facts into consideration, has rightly passed the order. Thus, we do not find any error in the order of the learned Single Judge so as to cause interference therein. The writ appeal fails and is, accordingly, dismissed. Consequently, CMP.No.4336 of 2022 is also dismissed. There will be no order as to costs.

SD/-
ASSISTANT REGISTRAR

// TRUE COPY //

SUB ASSISTANT REGISTRAR

kpl/drm

To

1. The Secretary
Department of Health & Family Welfare
Secretariat, Fort St. George
Chennai - 600 009.



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2. The Director
Directorate of Medical Education
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W.A.No.611 of 2022

gmr[col]
srg 05/04/2022