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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.05.2022

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

WRIT PETITION NO.12541 OF 2022

AND

W.M.P.NOS.12002, 12006 AND 12008 OF 2022

1. Dr.S.Giridharan
2. Dr.Aishwarya Thanasekaran
3. Dr.Gunasekar V
4. Dr.Felex Maree Angelo D
5. Dr.Mohmed Imran H
6. Dr.Kaavya M
7. Dr.M.D.Tharunnh
8. Dr.J.Rishi Kumar
9. Dr.Suganya P
10. Dr.Sabari Selvam
11. Dr.Sandhyaa K
12. Dr.Shanmugappiriyam C V
13. Dr.P.Kishore
14. Dr.Kabilan V
15. Dr.Mathankumar S
16. Dr.Harshini S
17. Dr.B.Dharani
18. Dr.Karthick D
19. Dr.Velarasam
20. Dr.Thirunavukkarasu G
21. Dr.Balakumaran C
22. Dr.Nivetha G
23. Dr.Pravin M
24. Dr.Reman Vijayan
25. Dr.K.Santha Sheela Kumar

... Petitioners

-Vs-

1. The State of Tamil Nadu,
Represented by its Principal Secretary,
Health and Family Department,
Secretariat, Chennai - 600 009.
2. The Directorate of Medical Education,
Represented by the Director
of Medical Education,
Kilpauk, Chennai - 600 010.



3. Madras Medical College,
Represented by its Dean,
E.V.R. Salai,
Chennai - 600 003.

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4. The Government Kilpauk Medical College,
Represented by its Dean,
Poonamalee High Road,
Kilpauk, Chennai - 600 010.
5. Stanley Medical College,
Represented by its Dean No.1,
Old Jail Road,
Chennai - 600 001.
6. Madurai Medical College,
Represented by its Dean,
Panagal Road,
Alwarpuram,
Madurai - 625 050.
7. Thoothukudi Government Medical College,
Represented by its Dean,
Kamaraj Nagar,
Thoothukudi - 628 008.
8. Theni Government Medical College,
Represented by its Dean,
Kochi-Madurai-Tondi Point Road,
Kanavilakku,
Theni - 625 531.

... Respondents

PRAYER:-

Writ Petition under Article 226 of the Constitution of India
praying for the issuance of a Writ of Mandamus, directing the
respondents to return the original certificates of the
petitioners collected by the 3rd to 8th respondent at the time of
their admission.

For Petitioners : Mr.E.Manoharan

For Respondents : Mr.D.Ravichander
Special Government Pleader



O R D E R

Heard the learned counsel appearing for the writ petitioners and the learned Special Government Pleader appearing for the respondents.

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2. The petitioners are qualified Doctors, who obtained Post Graduate degree in the respective colleges (respondents 3 to 8) during the academic year 2018-2021. While obtaining admission, they had undertaken to serve in Government Hospitals for a period of two years. To this effect, they had also executed bonds. After, they successfully completed their PG Courses in May 2021, they were called upon to do Covid-19 duty. They worked on temporary and contractual basis for about 10 months. Thereafter they were relieved. They were not issued with any fresh posting orders. The petitioners wrote to the respondents demanding return of their original certificates collected by the respective colleges at the time of admission. The respondents have taken a stand that since the petitioners had not served for a full period of two years as per the bond terms and conditions, the original certificates could not be returned. That necessitated filing of this writ petition.

3. The learned Special Government Pleader strongly contested the writ prayer. He submitted that the petitioners are squarely bound by the terms of the undertaking which they had voluntarily given with open eyes at the time of admission and now they cannot be allowed to go back on their undertaking.

4. Though the submission made by the learned Special Government Pleader is quite attractive, I must note that the similarly placed candidates had already been granted relief. They filed in W.P.No.28526 of 2021 seeking return of their certificates and the same was disposed of with certain directions. Aggrieved by the same, they filed W.A.No.1182 of 2022 before the Hon'ble First Bench. During the pendency of the writ appeal, the Director of Medical Education, Kilpauk, Chennai issued an order dated 21.04.2022, instructing the respective Deans of the Government Medical Colleges to return the original certificates to the appellants. In view of the same, the writ appeal was disposed of on 27.04.2022 with a direction to the respective Deans of the Government Medical Colleges to return the original certificates to the appellants at the earliest, in any case, not later than 15 days from the date of production of a certified copy of the judgment. In other words, even though they did not fulfill the terms and conditions of the bond, they were able to get back their certificates.

5. The Learned Special Government Pleader would point out that the said order cannot be cited as a precedent. He would



specifically highlight the fact that while in the earlier case, the Director has passed an order dated 21.04.2022, in the present case, no such communication had been issued.

6. While I do sustain the said stand of the learned Special Government Pleader, still in my view, the writ petitioners are entitled to relief for two reasons:

a) It is well settled that an Educational certificate is not a marketable commodity; therefore, there cannot be exercise of any lien in terms of Section 171 of the Indian Contract Act, 1872. It has been held in catena of cases that management cannot retain the certificates of the students.

b) The appellants in W.A.No.1182 of 2022 were identical placed. They were classmates of the writ petitioners herein. Therefore, a different yard stick cannot be adopted in the present case. That shall be a gross violation. A Statutory Authority will have to treat similarly placed persons in the same manner. Failure to do so would be an infraction of Article 14 of the Constitution of India.

For the aforesaid two reasons, this writ petition is allowed. The respective respondents are directed to return the original certificates to the writ petitioners within a period of 15 days from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Vacation Officer

//True Copy//

Sub Assistant Registrar

KST/mp

To

1. The Principal Secretary,
The State of Tamil Nadu,
Health and Family Department,
Secretariat,
Chennai - 600 009.
2. The Director of Medical Education,
The Directorate of Medical Education,
Kilpauk, Chennai - 600 010.



3. The Dean,
Madras Medical College,
E.V.R. Salai,
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4. The Dean,
The Government Kilpauk Medical College,
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5. The Dean,
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Represented by its Dean No.1,
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Panagal Road,
Alwarpuram,
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7. The Dean,
Thoothukudi Government Medical College,
Kamaraj Nagar,
Thoothukudi - 628 008.
8. The Dean,
Theni Government Medical College,
Kochi-Madurai-Tondi Point Road,
Kanavilakku,
Theni - 625 531.

+1cc to Mr.E.Manoharan, Advocate, S.R.No.31545

+1cc to the Government Pleader, S.R.Nos.31551 & 31536

W.P.NO.12541 OF 2022

SJ(CO)
PBS/20/05/2022