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W.P.No.16038 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.11.2022

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.No.16038 of 2022 and
W.M.P.No.15372 of 2022

Dr.Jainy J

... Petitioner

Vs

1.The State of Tamil Nadu,
Represented by its Secretary,
Health and Family Welfare Department
Fort St. George, Chennai- 600 009.

2.The Director of Medical Education,
Kilpauk, Chennai – 600 010.

3.The Dean,
Madras Medical College,
E.V.R. Periyar Salai,
Chennai – 600 003.

... Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of 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 the course of Doctor of Medicine (M.D.) in General Medicine, during May 2016, in the 3rd respondent College.

For Petitioner : Ms.Shanmitha S.

For Respondents : Mr.U.M.Ravichandran
Special Government Pleader



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ORDER

The prayer sought for in this writ petition is for a writ of mandamus directing the 2nd and 3rd respondents authorities to return all original certificates of the petitioner that were submitted by her at the time of admission to the course of Doctor of Medicine (M.D.) in General Medicine, during May 2016, in the 3rd respondent College.

2. The petitioner was admitted in Doctor of Medicine (M.D.) in General Medicine course at the 3rd respondent institute in the year 2016. At the time of joining the course, the petitioner apart from the original certificates filed also had executed a bond under which the petitioner had to work after successful completion of the P.G. Degree course for the two years period to the Institution/ Government Hospital, failing which, the petitioner has to pay a sum of Rs.40,00,000/- as bond fee to the 3rd respondent.

3. The petitioner had completed the course in May 2019 and was waiting for getting the posting order to work during the bond period. Though the petitioner waited for more than one year at last only on 24.12.2020 it seems an order of appointment has been given by the respondents to the petitioner posting the petitioner in Government Hospital, Gudalur i.e. the Nilgiris District and that order



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has not been complied with by the petitioner.

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4. While that being so, the present writ petition has been filed seeking a writ of mandamus to the respondents 2 and 3 to release all original certificates which are held back by the 3rd respondent which were given at the time of joining in the P.G. Degree in the year 2016.

5. Reiterating the aforestated, Ms.S.Shanmitha, learned counsel appearing for the petitioner seeks indulgence of this Court.

6. Heard Mr.U.M.Ravichandran, learned Special Government Pleader appearing for the respondents who has submitted the following Positional note given by the 2nd respondent:

“It is informed that Dr.J.Jainy, had joined M.D. (General Medicine) course at Madras Medical College, Chennai as Non Service Post Graduate during the year 2016. On completion of her course in May 2019, she was posted at Government Hospital, Gudalur, The Nilgiris District who Director of Public Health & Preventive Medicine R.No.61908/E5/A4/2019-DMS-8 dated 24.12.2020 to her but she has not joined duty in the posted place.

As per the conditions stipulated in the prospectus 2016-2017



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session, she has to pay the bond amount of Rs.40,00,000/- (Rupees forty lakhs only) to the Dean, Madras Medical College, Chennai to release all the original certificates submitted at the time of admission, failing which appropriate action will be initiated to recover the amount as per Revenue Recovery Act.”

7. Relying upon the Positional note and the copy of the order of appointment given by the respondents to the petitioner dated 24.12.2022, the learned Special Government Pleader appearing for the respondents submitted that, the petitioner, even though posting order was given on 24.12.2020, did not accept and join in the hospital where she has been posted in the Nilgiris District. Therefore, atleast for the remaining period of the bond, she has to work or she has to undertake to work whenever she is called for any emergency, without which, she cannot take back the certificates, otherwise has to pay the bond fee of Rs.40,00,000/- he contended.

8. I have considered the said submissions made by the learned counsel appearing for the parties and have perused the materials placed before this Court.

9. The issue raised in this writ petition has already been decided in many number of writ petitions and one such writ petition in W.P.No.26461 of 2022 etc.



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batch in the matter of P.Ruba Devi Vs. The State of Tamil Nadu, where I had an

occasion to consider this kind of cases and passed the following orders:

“22. As has been rightly pointed out by the learned counsel appearing for the petitioners which could not be controverted by the learned Special Government Pleader for the respondents that, the issue raised in these writ petitions is no more res integra as in the Division Bench judgment in W.A.No.799 of 2021 dated 06.10.2022, the Division Bench has concluded this issue.

23. The Division Bench in fact has held that the bond period is coterminous with the candidates concerned, therefore once the bond period is over i.e. the two years as the case may be if it is over within which if no offer of employment is given to whatever reason by the respondents, then the candidates cannot be clutched for any further period and they are entitled to get back their certificates and they are free to go for any other organisation to join or to go for any higher studies. Suppose in some cases if the bond period is not completed, even though the petitioners are ready and willing to work since there has been no offer given as of now by the respondents, the petitioners cannot be clutched and they cannot be kept idle without joining in any other course or in any other job opportunity and therefore, the Government i.e. the respondents themselves have come forward to make the offer that within the bond period if they want to take back the certificates and if they come forward to give an undertaking that whenever they are called for an emergency they would come back and serve for the bond period their certificates can be given back.



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The petitioners also since have agreed upon to give such an undertaking, this Court having taken note of all these aspects is inclined to dispose of these writ petitions with the following orders:

(i) That there shall be a direction to the respondents in all these writ petitions to consider the request made by each of the petitioners with regard to the returning back of the original certificates which are held by the respondents as they have been given by the respective petitioners at the time they joined in the respective P.G. Degree courses or P.G. Diploma courses and return back those certificates, in respect of the petitioners who completed the two years bond period as of now, forthwith i.e. within a period of two weeks from the date of receipt of a copy of this order.

(ii) Insofar as W.P.No.27467 of 2022 is concerned, since for a period of one year the petitioner had been in maternity leave and despite the offer made in this regard by the respondents, the petitioner could not serve because of the maternity leave and now the petitioner has come forward to give an undertaking that maternity leave period of one year taken by the petitioner would be compensated by serving the respondent institution if such offer is given in future in case of emergency. Therefore, with that condition to give undertaking the petitioner is entitled to get back the certificates.

(iii) Insofar as the W.P.No.27248 & 27249 of 2022 are concerned, since the bond period are over, within the bond period only covid-19 duty were offered to them and no regular duty has



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been given or posting or appointments are given, these petitioners in the said two writ petitions are free to get their certificates and the certificates belong to them shall be returned back by the respondents without any further conditions.

(iv) Insofar as all other writ petitions are concerned, since the bond period having not over as they have completed the P.G. Degree Courses only in 2022, after getting written undertaking to that effect as desired by the respondents from each of the petitioners that they would be ready to serve to the respondents/institutions/State Government when they are called for due to emergency in future and with these undertaking obtained from these petitioners individually, the respondents shall release the certificates belongs to these petitioners. The needful shall be undertaken by the respondents after getting these undertaking from the petitioners within one week thereafter.

24. With these directions, all these Writ Petitions are disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.”

10. Applying the same principle in the present case also if at all the petitioner had to work for the two years bond period from May 2019 and during that period even though the petitioner was waiting for getting orders from the respondents, only belatedly i.e. in 2021 since the order of appointment has been given to the petitioner and even that order could not be complied with by the



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petitioner, if at all the respondents wants to clutch the petitioner by requiring the petitioner to work in the remaining bond period, the petitioner is liable to work only for the remaining period i.e. for nearly about 5 to 6 months out of the two years bond period since the petitioner had been waiting from May 2019 to December 2021 to get the order of appointment.

11. In that view of the matter, this Court is inclined to dispose of this writ petition with the following orders:

That there shall be a direction to the respondents especially the 3rd respondent to release all the original certificates which were produced by the petitioner at the time of joining in the P.G. Degree course as stated supra after getting an undertaking affidavit from the petitioner to that effect that the petitioner would be ready and willing to serve to the Government Hospitals/Institutions whenever on emergency basis she is called for by the respondents in future and after getting such undertaking affidavit, the documents referred to above shall be returned to the petitioner. The needful as indicated above shall be undertaken by the 3rd respondent within a period of one week from the date of receipt of a copy of this order.



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WEB COPY 12. With these directions, this Writ Petition is disposed of. No costs.

Consequently, connected miscellaneous petition is closed.

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Index : Yes / No

Speaking Order: Yes / No

Note : Issue order copy on 09.11.2022

Sgl

To

1.The Secretary,
State of Tamil Nadu,
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Fort St. George, Chennai- 600 009.

2.The Director of Medical Education,
Kilpauk, Chennai – 600 010.

3.The Dean,
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