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W.P.Nos.27929, 27931, 27932, 27934, 27935, 27936
27937, 27941 and 27942 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.10.2022

CORAM

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.Nos.27929, 27931, 27932, 27934, 27935,
27936, 27937, 27941 and 27942 of 2022

W.P.No.27929 of 2022:

Dr.Vaishnavi Nair

... Petitioner

Vs.

1.The Principal Secretary to Government
of Tamil Nadu, Health and Family Welfare
Department, Secretariat, Fort St. George,
Chennai – 600 009.

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

3.The Dean,
Coimbatore Medical College
Coimbatore-641 014.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus to direct the 2nd and 3rd respondents to release / return all the original certificates along with provisional certificates of the petitioner which is retained by the 3rd respondent during PG Course of MD General Medicine, based on the representation of the petitioner dated 23.09.2022.



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In all W.Ps.

For Petitioners : Mr.Ramesh Venkatachalapathy

For Respondents : Mr.U.M.Ravichandran
in all WPs Special Government Pleader
for R1, R2 & R4

COMMON ORDER

The issue raised in these writ petitions since is common, with the consent of the learned counsel appearing for both sides, all these writ petitions were heard together and are disposed by this common order.

2. These petitioners after having completed the UG degree course in Medicine, subsequently, on selection, were admitted in respective P.G. Degree courses or P.G. Diploma courses at the respondents Institutions.

3. At the time of admitting in P.G. Degree courses or P.G. Diploma courses, they were asked to execute a bond under which *inter alia* one of the important condition is that, these students after completing either the P.G. Degree courses or P.G. Diploma courses have to serve for the Government/Government Institutions/Hospitals for a period of two years after they successfully completed their respective P.G. Degree courses or P.G. Diploma courses as the case may be.



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4. Accordingly, these petitioners have completed their respective P.G. Degree courses or P.G. Diploma courses in 2022, in other words, all these petitioners have successfully completed their respective P.G. Degree courses or P.G. Diploma courses as the case may be on or before 31st May 2022.

5. Even though they completed the P.G. courses successfully, and though they wanted to work for two years period their services have not been utilised by the respondents by offering any job to them to utilise their services for atleast two years period in order to comply with the bond condition that these petitioners would be utilised for two years in Government service.

6. Since no such offer had come from the respondents to utilise the services of the petitioners for two years of their completion of the P.G. Degree courses or P.G. Diploma courses, after the completion of the bond period, they would be free to go for any further option to secure a job in any other Hospitals, Institutions or even they can pursue further higher courses or super specialty courses.

7. However for the aforesated purpose, when they approached the respondents/institutions to get back the original certificates which they produced at the time of joining in P.G. Degree courses or P.G. Diploma courses, they refused to give original certificates pertaining to these



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petitioners on the simple reason that, since there has been a bond condition in the bond executed by each of the petitioners at the time of admission in P.G. Degree courses or P.G. Diploma courses, they should work for the Institution of Government for the period of 2 years and therefore for the period of two years, the petitioner would not be permitted to take back the original certificates.

8. Only against this stand taken by the respondents as they withheld the certificates belongs to the petitioners, these petitioners have approached this Court and filed this batch of writ petitions.

9. Heard Mr.Ramesh Venkatachalapathy, learned counsel appearing for the petitioners in these writ petitions and Mr.U.M.Ravichandran, learned Special Government Pleader for the respondents.

10. The issue raised in this batch of writ petitions is no more *res integra* as number of orders on this line have already been passed similar to that of the petitioners based on the writ appeal order in W.A.No.799 of 2019 where the following orders have been passed:



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“103. Our conclusions, therefore, are:

- i. There is no material difference between the status of students occupying the State seats and All India Quota seats, in as much as they enjoy the educational facilities at par with each other, with the same subsidies and the same expenses being borne by the State Government.*
- ii. The conditions in the brochures for the years 2014~2015, 2015~2016 or the other brochures do not exempt the candidates of All India Quota seats from any condition of bond being executed by them and, therefore, the execution of the bonds voluntarily by such candidates will be presumed to be under the terms and conditions of the said brochures.*
- iii. The concessions made by the State Government and the letters addressed in this regard, particularly the letter communication dated 17.7.2017, or the admissions referred to in paragraphs (62) to (64) of this judgment, cannot confer any benefit contrary to the terms and conditions of the brochures.*
- iv. The intimation given under the Right to Information Act by the Central Government, as referred to in paragraph (65) of this judgment, cannot also absolve the All India Quota seat occupants from discharging their liability by the bonds which they have voluntarily filled up, and to which agreement the Central Government is not a party. Any such clarification issued does not come to the aid of the writ petitioners.*
- v. The judgment of the Apex Court in the case of Association of Medical Superspeciality Aspirants and Residents and others (supra) lays down the law and, therefore, any judgment rendered by this Court previously to the contrary does not hold water and cannot be taken benefit of by the writ petitioners.*



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vi. The period of applicability of the conditions under the bond will be co-terminus with the period of two years from the date a candidate successfully passes out the course, as explained above, and would not continue beyond the same.

vii. The candidates who have not been offered appointment within the period of two years would be entitled to release of their certificates accordingly.” (Emphasis supplied)

11. After having declared the law in respect of this issue, the First Bench also has passed the following order:

“104. We have, therefore, no option but to set aside the impugned judgment dated 1.10.2018, but with a direction that in the event the period of two years has passed by after the passing out of the candidates without any offer of employment, then, in that event, they are not bound by the terms of the bonds executed by them and are consequently entitled for return of certificates. It is further clarified that this period will have to be sorted out in respect of all the candidates together with the details of the offer of employment made to them. The State Government shall, accordingly, prepare a list of all such candidates within fifteen days from today and notify it with details, including the date of passing out; the status of the offer of employment or otherwise, as well as the date of expiry of two years, in order to avoid any confusion on this count.”

12. Relying upon this decision and also various other decisions following the aforesaid one, the learned counsel appearing for the



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petitioners would canvass the point that, insofar as the candidates who have not completed the two years bond period, there are two options available before the authorities concerned, either to utilise their services for their bond period or to give back the certificates, however insofar as the other candidates, where the two years bond period is over, they have to necessarily give back the certificates because, as per the law declared by this Court in the judgment cited supra the period of applicability of the conditions under the bond will be coterminous with the period of two years from the date a candidate successfully passes out the course.

13. Therefore, the learned counsel appearing for the petitioners seeks indulgence of this Court to give suitable direction to the respondents to give back the original certificates which are withheld by the respondents to the respective petitioners forthwith.

14. Mr.U.M.Ravichandran, learned Special Government Pleader appearing for the respondents, by relying upon the written instructions given by the respondents as well as the Government Order in G.O.(Ms)No.185 Health and Family Welfare (MCA-1) Department dated 13.04.2022 would submit that, there are four category of cases under which some of the cases during the bond period of two years no posting orders could have been given for want of vacancy, in those cases they can get the certificates and in



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respect of other three categories i.e. those who are received posting orders but not joined in the posted place or the non service post graduates called for counseling but not attended the counseling and also the non service post graduates called for counseling but opted out without taking postings even though there were vacancies. These are all the categories under which these petitioners can be categorised. Therefore, insofar as the petitioners in whose bond period is over within which no offer of appointment has been given to those candidates, the respondents can give back their certificates and they are free to go.

15. Insofar as the other three categories are concerned, either they have to serve for the bond period or to give an undertaking to the respondents that for the bond period or the remaining bond period, they would be ready and willing to serve to the respondents in case of emergency that arise in future and in that case they would be called for to serve. Therefore, if an undertaking to that effect is given even in respect of those petitioners, the certificates would be given to them.

16. In support of his contention, he relied upon the written instructions given by the Director of Medical Education dated 13.10.2022 which reads thus:



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"General Instructions with regard to return of original certificates

I. Non Service Post Graduate candidates who have completed their PG courses in the year 2020

1. If no Posting orders have been issued to the Non Service Post Graduates due to non availability of vacancy in the counseling, then their certificates may be returned.

2. The following Non Service Post Graduates have to pay the Bond amount in order to get their Original Certificates:

- I) Those who were issued posting orders but not joined in the posted place
- ii) The Non Service Post Graduates called for counseling but not attended the counseling.
- iii) The Non Service Post Graduates called for counseling but opted out without taking postings even though there were vacancies.

II. Non Service Post Graduate candidates who have completed their PG courses in the year 2021 & 2022

1. If no Posting orders have been issued to the Non Service Post Graduates due to non availability of vacancy in the counseling, then their certificates may be returned after obtaining undertaking that they will offer their services, if they are called during their bond period (2 years) in Emergency situation in Health Department.

2. The following Non Service Post Graduates have to do Bond Service or pay the Bond amount in order to get their original certificates

- I) Those who were issued posting orders but not joined in the posted place.



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ii) The Non Service Post Graduates called for counseling but not attended the counseling.

iii) The Non Service Post Graduates called for counseling but opted out without taking postings even though there were vacancies.

For Director of Medical Education”

17. The petitioners in all these writ petitions have completed the course only in 2022 and the bond period of two years is yet to be over.

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

19. 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.

20. 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



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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. 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:

“Since the bond period having not over as the petitioners have completed the P.G. Degree Courses only in 2022, after getting a 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



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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.

21. With these directions, all these Writ Petitions are disposed of.

However, there shall be no order as to costs.

19.10.2022

Index : Yes/No

Speaking order : Yes/No

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To

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of Tamil Nadu, Health and Family Welfare
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R.SURESH KUMAR, J.

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W.P.No.27929 of 2022 etc Batch

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