



WEB COPY



W.P.No.29231 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 04.11.2022

CORAM

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P.No.29231 of 2022
and W.M.P.No.28523 of 2022

1.A. Pushpa

2.S. Sudha

3.S. Sakthivel

4.K. Saravanan

5.Kavitha

6.S. Priya

7.D. Bagirathi

... Petitioners

Vs.

1.State of Tamil Nadu,
Rep. by Principal Secretary to Government,
Health & Family Welfare Department,
Secretary, Chennai – 9.

2.Director of Public Health and
Preventive Medicine,
Chennai – 6.

3.Medical Services Recruitment Board (MRB),
Chennai.

... Respondents

*[*R3 is suo-moto impleaded as per the order of this Court dated 04.11.2022
in WP.No.29231 of 2022*]*



W.P.No.29231 of 2022

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of Writ of Mandamus, directing the respondents herein to consider the candidature of the petitioners for the post of Ophthalmic Assistant in the light of the order passed by this Court in W.A.No.139 of 2008 dated 30.04.2008 and G.O.Ms.No.276 dated 01.09.2022 issued by Principal Secretary to Government Health and Family Welfare (C2) Department.

For Petitioners : Mr.A. Tamilvanan

For Respondents : Mr.T. Chezhiyan,
Additional Government Pleader [R1 & R2]

Mr.M. Loganathan,
Standing Counsel [R3]

ORDER

This Writ Petition has been filed for a Mandamus seeking for a direction to the respondents to consider the candidature of the petitioners for the post of Ophthalmic Assistant in the light of the order passed by this Court in W.A.No.139 of 2008 dated 30.04.2008 and G.O.Ms.No.276 dated 01.09.2022 issued by the Principal Secretary to Government Health and Family Welfare (C2) Department, within a time frame to be fixed by this Court.



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2. Heard the learned counsel for the petitioners. Mr.T. Chezhiyan, learned Additional Government Pleader accepts notice on behalf of the first and second respondents, Mr.M. Loganathan, learned standing counsel, accepts notice on behalf of the third respondent. By consent of both the parties, this Writ Petition is taken up for final disposal at the admission stage itself.

3. It is now brought to the notice of this Court by the learned Additional Government Pleader appearing for the first and second respondents that the Medical Services Recruitment Board (MRB) is a necessary party and the representation of the petitioners can be considered only by them.

4. Since the Medical Services Recruitment Board is a necessary party, this Court *Suo-moto* impleads them as a party third respondent in this Writ Petition. Accordingly, the Medical Services Recruitment Board (MRB), Chennai, is made as a party third respondent. Registry is directed to carry out necessary amendments.



5. The petitioners' grievance is that earlier, for the post of Ophthalmic Assistant, only para-medical students from Government Colleges alone were allowed to apply for the said post. However, pursuant to an order dated 30.04.2008 passed by the Hon'ble Division Bench of this Court in W.A.No.139 of 2008, the said restriction was removed. Thereafter, G.O.Ms.No.276 dated 01.09.2022, also came to be issued by the Principal Secretary to Government Health and Family Welfare (C2) Department, in terms of the order of the Hon'ble Division Bench. However, according to the petitioners, till date, the petitioners and the similarly placed persons who have studied in private colleges, have not been allowed to apply for the post of Ophthalmic Assistant. In such circumstances, they seek for the relief sought for in this Writ Petition, as stated supra.

6. The petitioners will have to give fresh representations to the respondents including the third respondent who has been *Suo-moto* impleaded in this Writ Petition to redress their grievance.

7. No prejudice will be caused to the respondents if the petitioners' representations are considered on merits and in accordance with law, within a time frame to be fixed by this Court.



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8. For the foregoing reasons, this Court directs the petitioners to submit fresh representation to the respondents, permitting private para-medical students also to apply for the post of Ophthalmic Assistant in the light of the order passed by the Hon'ble Division Bench of this Court in W.A.No.139 of 2008 dated 30.04.2008 and G.O.Ms.No.276 dated 01.09.2022 issued by the Principal Secretary to Government Health and Family Welfare (C2) Department, within a period of one (1) week from the date of receipt of a copy of this order and on receipt of the said representation, the respondents are directed to pass final orders on the said representation, within a period of eight (8) weeks thereafter.

9. With the aforesaid directions, this Writ Petition is disposed of. No costs. Connected miscellaneous petition is closed.

04.11.2022

Speaking/Non-speaking order

Index: Yes/No

Internet: Yes/No

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ABDUL QUDDHOSE,J.

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To

- 1.Principal Secretary to Government of Tamil Nadu,
Health & Family Welfare Department,
Secretary, Chennai – 9.
- 2.Director of Public Health and
Preventive Medicine,
Chennai – 6.
- 3.Medical Services Recruitment Board (MRB),
Chennai.

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