



W.P. Nos.28649 & 31454 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.12.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

W.P. Nos.28649 of 2022 & 31454 of 2022
and W.M.P. Nos.27929 to 27931 &
32016 of 2022 and 30909 of 2022

W.P. No.28649 of 2022

Dr.P.Balakrishnan

... Petitioner

Vs

1.The Tamil Nadu Medical Council
Rep by its Registrar
914, Poonamallee High Road
Amaravathi Nagar, Arumbakkam
Chennai - 600 106

2.The President
The Tamil Nadu Medical Council
914, Poonamallee High Road
Amaravathi Nagar, Arumbakkam
Chennai - 600 106

3.The Health Secretary
Government of Tamil Nadu
Secretariat, St. George Fort
Chennai - 600 009



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4.Dr.Vinayak Senthil Kannabiran

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5.Dr.Vivekananda Subramania Nathan Karuppasamy ... Respondents
(Respondents 4 & 5 impleaded vide order of the
court dated 06.12.2022)

Prayer: Writ Petition filed under Article 226 of the Constitution of India for a writ of certiorarified mandamus to call for the records of the notice dated 14.09.2022 pertaining to the first respondent Tamil Nadu Medical Council Chennai (Elections-2023) published in Indian Express on 15.09.2022 and to quash the same and consequently direct the respondents to appoint an Administrator to conduct the Tamil Nadu Medical Council Chennai (Election-2023) as per the Madras Medical Registration Act.

For Petitioner : Mr.AR.L.Sundaresan, Senior Counsel
for Mr.C.Kanagaraj

For Respondents : Mr.P.Wilson, Senior Counsel
for Mr.G.Sankaran, for R1 and R2

Mr.R.Shunmugasundaram,
Advocate General
assisted by Mr.P.Muthukumar
State Govt. Pleader and
Mr.U.Baranidharan, AGP for R3

Mr.J.Saravanel for R4 & R5



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WEB COURT

Dr.N.Karthikeyan

Vs

... Petitioner

- 1.The State of Tamil Nadu
Represented by its Principal Secretary
Health and Family Welfare Department
Secretariat, Chennai - 600 009.
- 2.The Tamil Nadu Medical Council
Represented by its Registrar
New No.914, Old No.569
Poonamallee High Road
Arumbakkam, Chennai - 600 106
- 3.National Medical Commission
Represented by its Secretary
Pocket 14, Sector - 8, Dwarka Phase I
New Delhi - 110 077

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for a writ of mandamus directing the 1st respondent to ensure that the election to the office bearers of the 2nd Respondent be conducted through electronic voting with One Time Password (OTP) authentication and further directing that a person having conflict of interest, either directly or indirectly, shall not be eligible to contest in the election or be nominated to the office of the 2nd Respondent under Section 5(1)(f) and (g) of the Tamil Nadu Medical Registration Act, 1914.



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For Petitioner : Mr.Suhrith Parthasarathy
For Respondents : Mr.R.Shunmugasundaram,
Advocate General
assisted by Mr.P.Muthukumar
State Govt. Pleader and
Mr.U.Baranidharan, AGP for R1

Mr.P.Wilson, Senior Counsel
for Mr.G.Sankaran, for R2 and R3

COMMON ORDER

The petitioners in these writ petitions challenge the election notification issued by the Tamil Nadu Medical Council under Section 5(1)(f) of the Madras Medical Registration Act, 1914. Though the petitioners have raised various grievances, upon perusing the provisions of the enactment, namely the Madras Medical Registration Act, 1914, which provides for establishment of a Medical Council, I find that the enactment as well as the rules are archaic and they need complete revamp. In fact, provisions are made for membership of a member of the senate of the Madras University belonging to the faculty of medicine, member of the senate of the Andhra University, member elected from amongst the members of the Madras Medical College from among the registered Medical Practitioners, member



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from among the registered Medical Practitioners of the Medical College at Visakhapatnam, a member of the staff of the Stanley Medical College, etc.

These provisions were enacted when a Medical Council was contemplated for the Presidency of Madras, as it stood prior to the re-organisation of the States on linguistic basis. A further allegation has also been made by the petitioners that the Registrar, who is aged 63 years, cannot continue in office, as the age of retirement is 55 years.

2. Mr.P.Wilson, learned senior counsel appearing for the Medical Council would submit that there are provisions, which would enable the council or the President to extend the services of the employees or the age fixed for retirement also. There is no material placed on record to show that such powers vested under the proviso to Rule 43 and Rule 55 of the Medical Registration Rules, have been invoked in the proper manner. In any event, in view of the fact that the rules provide for representatives of Madras University, Andhra University as well as Professors of the medical college in Andhra Pradesh to be part of the council, it is clear that these rules as well as the enactment need complete revamp.



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3. The learned Advocate General, who is appearing for the third respondent in W.P. No.28649 of 2022, namely the Health Secretary, Government of Tamil Nadu, would submit that the Government would undertake the exercise and complete it within a period of three months.

4. Therefore, accepting the submission of the learned Advocate General, the elections of the council are postponed for a period of three months to be conducted afresh after the Government completes the revamping of the rules and the enactment, in consultation with the present office bearers of the Tamil Nadu Medical Council. The Government will also consider introducing reforms in the election process by incorporating provisions for e-voting/on line voting, if feasible. This will not, however, impede the functioning of the present office bearers, till such time, the rules and the enactment are revamped or till such time the Government makes suitable alternative arrangement.



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5. With the above observation, the writ petitions are disposed of.

However, there shall be no order as to costs. Consequently, the connected writ miscellaneous petitions are closed.

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Asr

Index: Yes/No

Speaking order / Non speaking order

To:

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R.SUBRAMANIAN, J.

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