



W.P.No.29147 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.11.2022

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.No.29147 of 2022
and W.M.P.No.28434 of 2022

Dr.A.Shabari

... Petitioner

-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 Deputy Director of
Medical Education,
Kilpauk, Chennai – 600 010.

3.The Dean
Madras Medical College
Poonamallee High Road
Park Town, 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 respondents to return the original certificates of the petitioner retained by the 3rd respondent regarding the Post Graduation Course of the petitioner.

For Petitioners : Mr.Ma.Pa.Thangavel
For Respondents : Mr.U.M.Ravichandran
Special Government Pleader



W.P.No.29147 of 2022

ORDER

The prayer sought for in this writ petition is for a writ of mandamus directing the respondents to return the original certificates of the petitioner retained by the 3rd respondent regarding the Post Graduation Course of the petitioner.

2. The petitioner after completing the U.G. Degree in Medicine joined in P.G. Degree Course and at the time of admission of P.G. Course, when he submitted his certificates, apart from them, a bond was asked to be executed by the petitioners, under which, the petitioner had executed the bond stating that the petitioner would work for the institution/Government for two years period after he completed the P.G. Degree course.

3. Accordingly, he completed the P.G. Degree course in May 2022, thereafter the petitioner's service has so far not been utilised by the respondents by offering any job to the petitioner. Now the petitioner wants to pursue his further higher studies or to join in any employment opportunities in any other institution or hospitals and for the said purpose, when he approached the respondents to get the U.G. Degree original certificates and other certificates submitted at the time of joining in the P.G. Degree course, the respondents especially the third respondent stated that, since the bond period of two years executed by them is yet to be over, within the said period, the petitioner would not be provided with the original certificates.



W.P.No.29147 of 2022

4. Therefore in order to get the said certificates, the petitioner has moved the present writ petition.

5. Heard Mr.Ma.Pa.Thangavel, learned counsel appearing for the petitioner, who having reiterated the afore stated would seek the indulgence of this Court and the learned counsel would also submit that, insofar as the bond period is concerned, though the petitioner is ready and willing to work, his services are not utilised by the respondents. Therefore, the respondents may be directed to return back the original certificates and the petitioner would give an undertaking affidavit to the respondents that whenever for the remaining bond period if the petitioner's service are required on emergency basis, on that basis if he is called for working to the institution, he is ready and willing to work with the respondent institution.

6. Heard Mr.U.M.Ravichandran, learned Special Government Pleader appearing for the respondents who would submit that, the issue raised in this writ petition has already been considered in number of cases and he has produced a copy of the order dated 17.10.2022 in a batch of writ petitions in W.P.No.26461 of 2022 etc. batch in the matter of P.Ruba Devi Vs. The State of Tamil Nadu, where, *inter alia* the Court, after hearing both sides, has passed the following orders:

"22. As has been rightly pointed out by the learned counsel



W.P.No.29147 of 2022

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. 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.



W.P.No.29147 of 2022

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 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.



W.P.No.29147 of 2022

WEB COPY

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.”

7. Relying upon the said judgment, the learned Special Government Pleader would contend that, insofar as the petitioner's case is concerned, since the bond period is admittedly not yet over, he would be covered by sub-clause (iv) of para 23 of the order referred to above.

8. I have considered the said submissions made by the learned counsel for both sides. As has been rightly pointed out by the learned Special Government Pleader, the issue raised in this writ petition is no more *res integra* as number of similar cases as that of the case projected by the petitioners having been considered was disposed of. 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 to consider the request made by the petitioner with regard to the returning back of the original certificates which are held by the respondents as the same has been given by the petitioner at the time he joined in the respective P.G. Degree Course and return back those certificates after getting an undertaking affidavit from petitioner to the effect that the petitioner would be ready



W.P.No.29147 of 2022

and willing to work with the institution if he is called for in future on the basis of any emergency by the respondents and with the said conditions, the certificates of the petitioner can be returned back by the respondents immediately.

9. With the above directions, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

03.11.2022

Index : Yes / No

Speaking Order: Yes / No

Note : Issue order copy on **04.11.2022**

KST

To

- 1.The Principal Secretary,
State of Tamil Nadu,
Health and Family Department,
Secretariat, Chennai – 600 009.
- 2.The Deputy Director of Medical Education,
The Directorate of Medical Education,
Kilpauk, Chennai – 600 010.
- 3.The Dean
Madras Medical College
Poonamallee High Road
Park Town, Chennai 600 003.



WEB COPY



W.P.No.29147 of 2022

R. SURESH KUMAR, J.

kst

W.P.No.29147 of 2022

03.11.2022