



WEB COPY



W.P.No.29510 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.11.2022

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

Writ Petition No.29510 of 2022
and W.M.P.No.28885 of 2022

- 1.Dr.Srinivas E
- 2.Dr.Sethupathy R
- 3.Dr.Balraj J
- 4.Dr.Arul Prasanna
- 5.Dr.Vignesh S.V.
- 6.Dr.Pranavakumar Palaninathan

.... Petitioners

-Vs-

- 1.The State of Tamil Nadu
represented by its Principal Secretary
Health and Family Department
Secretariat, Chennai 600 009.
- 2.Director of Medical Education
Represented by the Deputy Director of
Medical Education, Kilpauk
Chennai 600 010.
- 3.Madras Medical College represented by
its Dean, Poonamallee High Road
Chennai 600 003.
- 4.The National Medical Commission
Represented by its Secretary
Pocket-14, Sector-8, Dwarka Phase I
New Delhi 110 077.

... Respondents



W.P.No.29510 of 2022

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the 3rd respondents to return the original certificates / documents of the petitioners along with their post graduate degree certificates.

For Petitioners : Mr.Suhrith Parthasarathy
For Respondents : Mr.U.M.Ravichandran
Special Government Pleader – for RR 1 to 3
Ms.Shubharanjani Ananth
Standing Counsel – for R4

ORDER

The petitioners in this writ petition had joined in PG Medical Course and completed the same in May 2022. At the time of joining the course, they submitted their original certificates relating to the UG Degree. That apart, as required by the respondents, these petitioners also had executed a bond stating that (or) undertaking that, these petitioners, after completion of their PG degree would work for Government Hospitals / Institutions as the respondents desire for a period a period of two years, which is otherwise called bond period.

2. After completion of course now in May 2022, though the petitioners had waited for getting the job or engagement, the respondents have not come forward to utilize the services of the petitioner in any Government institutions or hospitals and to that effect no orders of appointment or engagement had been made or passed by the respondents.



W.P.No.29510 of 2022

WEB COPY

3. In the meanwhile, the petitioners wanted to explore the possibility of joining in any other hospital or institution for their livelihood and some of them also wanted to pursue their super speciality course. In both counts, the original certificates which are held back by the respondents which were given by these petitioners at the time of joining in the PG Degree Course in the respective institutions / hospitals, are required.

4. However, when these petitioners approached the respondents, especially the institutions where they studied to get their original certificates, the same were not given back to the petitioners and the reason for not giving back the certificates according to the respondents is that, as per the bond condition these petitioners should work in the Government institution / hospital for a period of two years and since two years bond period is not over, as that period is there till May 2024, within the said bond period the petitioners' certificates would not be returned back to them. Only at that juncture, the present writ petitions have been filed by these petitioners.

5. Heard the learned counsel for the petitioners who would submit that, even though the petitioners are ready and willing to work in the bond period, since the respondents have not come forward to utilize the services of the



W.P.No.29510 of 2022

petitioners and no appointment or engagement orders have been issued, keeping the petitioners idle would be a waste not only for the petitioners but also for the nation, as they are qualified doctors. Therefore, the learned counsel for the petitioners would submit that the petitioners are ready and willing to execute an undertaking affidavit to and in favour of the respondents / institutions where the petitioners studied, to the effect that, the petitioners are ready and willing to work with the respondents for the bond period and in this regard, whenever such emergency arises or need arises and if any offer of appointment comes from the respondents, the petitioners are ready and willing to honour the same and work in the institutions. Therefore, based on such undertaking to be given by the petitioners, the respondents can be directed to release or give back the certificates of the petitioners so that the petitioners, by making use of the certificates, would work out for any job opportunity in any other private or Government hospitals or pursue their higher studies, he contended.

6. On the other hand, Mr.U.M.Ravichandran, learned Special Government Pleader appearing for the respondents, on instructions would submit that, it is an admitted case on the part of the petitioners that, they completed their respective PG Degree in May 2022 and their bond period is there till May 2024. Within the said period either they have to work in the Government Hospital or institution or make the payment of bond fee.



W.P.No.29510 of 2022

WEB COPY

7. However, the learned Special Government Pleader would submit that, the issue as to whether these petitioners are entitled to get back the certificates, which they have given at the time of joining in the PG Degree had already engaged this Court, in number of writ petitions in this regard, where this Court having considered the said plea raised by the respective PG Degree holders, of course by following the Division Bench Judgment in this regard, had disposed of those writ petitions, where a set of directions have been given.

8. One such batch of writ petitions, according to the learned Special Government Pleader, was disposed of on 17.10.2022 in the matter of **P.Ruba Devi Vs. The State of Tamil Nadu** in **W.P.No.26461 of 2022 etc.** batch, where this Hon'ble Court, according to the learned Special Government Pleader, has given a set of directions in Para 23 of the said order, wherein Clause (iv) of the direction in Para 23 would be squarely applicable to the facts of the present case also. Therefore, if such kind of directions are given in these cases also, that would be suffice to meet the ends of justice he contended.

9. I have considered the submissions made by the learned counsel for both sides and perused the materials placed on record.



W.P.No.29510 of 2022

10. As has been rightly pointed out by the learned Special Government Pleader appearing for the respondents, the issue raised in these writ petitions has already been decided in number of cases and in the said case viz., **P.Ruba Devi Vs. The State of Tamil Nadu (W.P.No.26461 of 2022 etc., batch of cases)** dated 17.10.2022, this Court has passed the following order.

“ 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



W.P.No.29510 of 2022

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 been given or posting or appointments are given, these petitioners in the said two writ petitions are free to get their certificates and the



W.P.No.29510 of 2022

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.”

11. Various situations, depending upon the bond period, whether it is over or yet to be over were taken into account and accordingly a set of directions were given in the said batch of cases. However, insofar as this batch of writ petitions are concerned, admittedly the bond period is yet to be over and the two years period would be over only in May 2024. Therefore, as rightly pointed out by the learned Special Government Pleader, clause (iv) of the said order cited supra would be squarely applicable to the facts of the present writ petitions.



W.P.No.29510 of 2022

12. Accordingly, this Court feels that these writ petitions also can be disposed of in the aforesaid terms. Hence, these writ petitions are disposed of with the following order.

- That there shall be a direction to the respondents to return the certificates in original which are held back by the respondents given by the petitioners at the time of the admission into the PG Degree Course in the respondent institutions as they have completed the course in May 2022.
- However, before releasing / returning the certificates, the petitioners shall execute an undertaking affidavit before the respondents / institutions where they studied, by giving an undertaking that the petitioners are ready and willing to work with the respondent Government institutions / hospitals for the remaining bond period whenever such call comes from the respondents on the basis of any need arises in future or on any emergency basis.
- It is made clear that in the affidavit to be executed by the petitioners as indicated above, each of the petitioners shall indicate their present address as well as permanent address for future communication by the respondents.



W.P.No.29510 of 2022

WEB COPY

- On receipt of such undertaking affidavit, the respondents shall do the needful as indicated above for releasing / returning the certificates of the petitioners within a period of one week.

13. With the above directions, this writ petition is disposed of. No costs.

Consequently, connected miscellaneous petitions are closed.

08.11.2022

Index : Yes/No
Internet : Yes/No
KST

1/2



W.P.No.29510 of 2022

To

WEB COPY

- 1.The State of Tamil Nadu
represented by its Principal Secretary
Health and Family Department
Secretariat, Chennai 600 009.
- 2.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
Chennai 600 003.
- 4.The Secretary
National Medical Commission
Represented by its Secretary
Pocket-14, Sector-8, Dwarka Phase I
New Delhi 110 077.



WEB COPY



W.P.No.29510 of 2022

R. SURESH KUMAR, J.

KST

W.P.No.29510 of 2022

08.11.2022