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W.P.No.30375 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.11.2022

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR
W.P.No.30375 of 2022

Dr.Sowmya.S

D/o. Saravanan.K

... Petitioner

-Vs-

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

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

3. The Dean,
Madras Medical College,
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 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 27.09.2022.



For Petitioner : Mr.P.Manikandan
For Respondents : Mr.U.M.Ravichandran
Special Government Pleader

ORDER

The petitioner had joined in PG Medical Course and completed the same in May 2022. At the time of joining the course, she submitted her original certificates relating to the UG Degree. That apart, as required by the respondents, the petitioner also had executed a bond stating that (or) undertaking that, the petitioner, after completion of her 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 petitioner 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.

3. In the meanwhile, the petitioner wanted to explore the possibility of joining in any other hospital or institution for livelihood or



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also wanted to pursue higher studies. In both counts, the original certificates which are held back by the respondents which were given by the petitioner at the time of joining in the PG Degree Course in the 3rd respondent institution, are required.

4. However, when the petitioner approached the respondents, especially the institution where she studied to get her original certificates, the same were not given back to the petitioner and the reason for not giving back the certificates according to the respondents is that, as per the bond condition the petitioner has to 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 petitioner's certificates would not be returned back to her. Only at that juncture, the present writ petition has been filed by the petitioner.

5. Heard the learned counsel for the petitioner who would submit that, even though is ready and willing to work in the bond period, since the respondents have not come forward to utilize the services of the petitioners and no appointment or engagement orders have been issued,



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keeping the petitioner idle would be waste of resources not only for the petitioner but also for the nation, as she is a qualified doctor. Therefore, the learned counsel for the petitioner would submit that the petitioner is ready and willing to execute an undertaking affidavit to and in favour of the respondents / institutions where the petitioner studied to the effect that, the petitioner is 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 petitioner is ready and willing to honour the same and work in the institution. Therefore, based on such undertaking to be given by the petitioner, the respondents can be directed to release or give back the certificates of the petitioner so that the petitioner, by making use of the certificates, would work out for any job opportunity and work for any other private or Government hospitals or to pursue 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 petitioner that she completed her PG Degree in May 2022. Their bond period is there



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till May 2024. Within the said period either she has to work in the Government Hospital or institution or make the payment of bond fee.

7. However, the learned Special Government Pleader would submit that, the issue as to whether petitioner is entitled to get back the certificates, which she has given at the time of joining in the PG Degree had already engaged this Court, where number of writ petitions in this regard, 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 in **W.P.No.26461 of 2022 etc.** batch in the matter of **P.Ruba Devi Vs. The State of Tamil Nadu**, 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 24 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



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would be suffice to meet the ends of justice he contended.

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

10. As has been rightly pointed out by the learned Special Government Pleader appearing for the respondents, the issue raised in this writ petition 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 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 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



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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 writ petition is 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 petition.

12. Accordingly, this Court feels that this writ petition also can be disposed of in the aforesaid terms. Hence, this writ petition is 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 petitioner at the time of the admission into the PG



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Degree Course in the 3rd respondent institution as she has completed the course in May 2022.

- ◆ However, before releasing / returning of the certificates, the petitioner shall execute an undertaking affidavit before the 3rd respondent institution, by giving an undertaking that the petitioner is ready and willing to work with the respondent Government institution / hospital 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 petitioner as indicated above, the petitioner shall indicate her present address as well as permanent address for future communication by the respondents.
- ◆ On receipt of such undertaking affidavit, the respondents shall do the needful as indicated above for releasing / returning of the certificates of the petitioner within a period of one week.



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13. With the above directions, this writ petitions is disposed of.

No costs.

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Index: Yes/No

Speaking order: Yes/No

Note: Issue order copy on 21.11.2021.

To

1. The Principal Secretary to Government of Tamil Nadu,
Health and Family Welfare Department,
Secretariat, Chennai – 600 009.
2. The Director of Medical Education,
No.162, EVR Periyar Salai,
Kilpauk, Chennai – 600 010.
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R.SURESH KUMAR.J.,

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