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W.P.No.30692 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.11.2022

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.No.30692 of 2022

Dr.S.Sanjana

...Petitioner

Vs

1.The State of Tamil Nadu,
Represented by its Principal Secretary,
Health and Family Welfare 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,
Near Park Town Station,
Poonamallee High Road,
Park Town, Chennai - 600 003.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the respondents 1 and 2 to return the original certificates of the petitioner retained by the 3rd respondent regarding the Post Graduation Courses of the petitioner.



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W.P.No.30692 of 2022

For Petitioner : Mr.K.R.Laxman

For Respondents : Mr.U.M.Ravichandran
Special Government Pleader

ORDER

The prayer sought for herein is for a Writ of Mandamus to direct the respondents 1 and 2 to return the original certificates of the petitioner retained by the third respondent at the time of joining in the Post Graduation Courses.

2. The petitioner, having completed the PG degree course in Medicine, joined in the Super Speciality Course at the respondent Institution. At the time of joining the course i.e. Super Speciality course, apart from other certificates which are in original submitted by the petitioner, she had also executed a bond that after completing the Super Speciality course, she would work for Government institution/hospital for a period of two years.

3. Now, after having completed her Super Speciality course, when the petitioner approached the respondent institution to get the original



W.P.No.30692 of 2022

certificates, the same has not been given or refused by the respondent institution by citing the reason that she had executed a bond to work for the hospital for two years period. Only at that juncture, the present writ petition has been filed.

4. Reiterating the aforesaid, the learned counsel for the petitioner would submit that, since number of orders have been passed in similar circumstances, where even though there is a bond within which if the services of the candidates are not utilized by the Government readily, they may be permitted to take back the original certificates which they have given at the time of joining the course concerned, after filing an undertaking affidavit to the effect that they will work for the Government institutions/hospital, as and when they are required on emergency basis in future. Therefore, that kind of indulgence can be shown in this case also, as the petitioner is similarly situated, he contended.

5. However, Mr.U.M.Ravichandran, learned Special Government Pleader appearing for the respondents, on instructions, would submit that, the petitioner has now only completed the Super Speciality course and



W.P.No.30692 of 2022

therefore, she is liable to work for two years, as per the undertaking given by her.

6. That apart, according to the learned Special Government Pleader, the petitioner, at the time of joining the PG degree course, had executed a bond for working with the Government institutions/hospital for two years and for that bond period, the petitioner has not worked so far. Therefore, for a total of four years, i.e., bond period of two years after completing PG degree course and the bond period of two years after completing Super Speciality course, the petitioner can given an undertaking affidavit to the effect that, she would work for the said period in any Government hospital/ institution.

7. I have considered the said submissions made by the learned counsel for both sides and have perused the materials placed before this Court.

8. As has been rightly pointed out by the learned counsel for the petitioner, the issue raised in this writ petition is no more *res integra*, as number of such orders have been passed in similar circumstances and one



W.P.No.30692 of 2022

such order, having been considered by this Court, was passed in

W.P.No.26461 of 2022 etc. batch, dated 17.10.2022 in the matter of **P.Ruba**

Devi Vs. The State of Tamil Nadu, where this Court has passed the following order:

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



W.P.No.30692 of 2022

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."

9. In view of the said orders passed by this Court, following the same, this Court is inclined to dispose of this writ petitions with the following orders:

(i) That the petitioner is entitled to get the original certificates from the respondent Institution, which she had produced at the time of joining in the Super Speciality Course as well as at the time of joining in the PG degree course, on



W.P.No.30692 of 2022

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condition that the petitioner shall file an undertaking affidavit to the respondents assuring that, the petitioner would be ready and willing to work with the respondents i.e. Government hospital and institutions in future, in case of emergency and if any such call is given by the respondents, that would be honoured by the petitioner to join immediately to the duty with the Government hospitals and institutions in future for the total bond period i.e. two years bond period, if that is executed after completion of PG degree course and another two years bond period after completion of Super Speciality Course.

(ii) If such a compliance is made by the petitioner by giving an undertaking affidavit, as indicated above, after receipt of the same, the respondents shall forthwith give back the certificates to the petitioner.

(iii) It is also 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.



W.P.No.30692 of 2022

10. With these directions, the Writ Petition is disposed of. No costs.

WEB COPY

18.11.2022

Index: Yes/No

Speaking Order/Non-speaking order

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Note: Issue order copy on 24.11.2022

To

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



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W.P.No.30692 of 2022

R.SURESH KUMAR,J.

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W.P.No.30692 of 2022

18.11.2022