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W.P.No.31235 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.11.2022

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

Writ Petition No.31235 of 2022
and W.M.P.No.30674 of 2022

Dr.K.Ramya Devi

.... 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.Government Kilpauk Medical
College and Hospital represented by
its Dean, Poonamallee High Road
Kilpauk, Chennai 600 010.

4.National Medical Commission
Represented by its Secretary
Pocket No.14, Sector-8
Dwaraka Phase-I, New Delhi-110 077.

... Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India
praying for the issuance of a Writ of Mandamus directing the 3rd
respondent to return the original certificates / documents of the petitioner
along with the Post Graduate Degree Certificate.



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For Petitioner : Mr.Suhrith Parthasarathy

For Respondents : Mr.U.M.Ravichandran
Special Government Pleader – for R1
to R3

Ms.Shubharanjani Ananth
Standing Counsel

ORDER

The petitioner in this writ petition 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 petitioners also had executed a bond stating that (or) undertaking that, the petitioner, after completion of the 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



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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 the livelihood or to pursue super speciality course. 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 respective institution / hospital, are required.

4. However, when the petitioner approached the respondents, especially the 3rd respondent institution where she studied to get the 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 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 petitioner's certificates would not be returned back to her. Only at that juncture, the present writ petition has been filed by the petitioner.



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WEB COPY 5. Heard the learned counsel for the petitioner who would submit that, even though the petitioner is ready and willing to work in the bond period, since the respondents have not come forward to utilize the services of the petitioner and no appointment or engagement orders have been issued, keeping the petitioners idle would be a 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 petitioners, 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 their higher studies, he contended.



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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 PG Degree in May 2022. Their bond period is there 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 the 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



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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 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.

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 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



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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,



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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 petition.



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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 petitioner at the time of the admission into the PG Degree Course in the 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 respondents / institutions where she studied, by giving an undertaking that the petitioner is 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, the petitioner shall indicate their present address as well as permanent address for future communication by the respondents.



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- 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.

13. It is further submitted by Mr.U.M.Ravichandran, learned Special Government Pleader appearing for the respondents that, the Government decided to give jobs to these doctors by utilizing their services in Government Hospitals and in this regard, they already planned to have a counseling and after completing the counseling, the candidates would be considered for giving appointment orders and that exercise would be over within a maximum period of four months within which this petitioner also would get appointment order for utilizing their services during the bond period.

14. In this regard, the learned Special Government Pleader has produced a circular issued by the Directorate of Medical Education dated 15.11.2022 in Ref.No.086787/ME2/1/2022 dated 15.11.2022, wherein the following has been stated.

“The Deans of Government Medical College under the



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control of this Directorate are informed that, Appointment counseling in respect of Non Service Post Graduate Candidates who have completed their PG Courses from 2017-2022 and not issued appointment orders so far is proposed to be conducted on the following candidates:-

22.11.2022 – for the year of 2021 (S.Nos.331-753 for 423 candidates)

23.11.2022 – for the year of 2022 (S.Nos.754-1153 for 400 candidates)

24.11.2022 – for the year of 2022 (S.No.1154-1565 for 412 candidates)

23.11.2022 – for the year 2017-2020 (S.No.1-330 for 330 candidates)

In this connection, the Deans are instructed to inform the candidates (annexure enclosed) of the respective colleges to attend the appointment counseling along with the following certificates (attested Xerox copies) for verification on the above scheduled dates respectively.

- 1. SSLC Certificate*
- 2. Higher Secondary School Certificate*
- 3. MBBS Degree Certificate*
- 4. Tamil Nadu Medical Council Registration Certificate*
- 5. Post Graduate Degree / Diploma Certificate*
- 6. Community Certificate*
- 7. CRRI Certificate*

The Deans are informed that in the Annexure enclosed, the Date of Birth and also in certain cases the names of the institutions is found missing. Hence, it is requested to send the Date of Birth and the Name of the institution related to the candidates who studied in their respective colleges to dmemesection1@gmail.com by 16.11.2022 at 11 A.M., without fail so that a consolidated



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list can be sent to Directorate of Public Health and Preventive Medicine, Chennai for conduct of appointment counseling.”

15. Learned Special Government Pleader has clarified that, this circular relates to the doctors who completed the PG Course, who would be first involved in the counseling as proposed in the circular dated 15.11.2022 and after completing the same, the Government plans to have another counseling for doctors who have completed Super Speciality course. Therefore, within a period of four months, they will also be roped in the counseling and their services will be utilized appropriately.

16. Considering these aspects, apart from the regular conditions being imposed by this Court for returning back of the original certificates to the respective petitioners, one additional condition is also imposed stating that, in view of the decision now having been taken by the Government to utilize the services of the petitioner, in the undertaking affidavit to be submitted by the the petitioner, as indicated above, she shall also give an undertaking that,



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“If the Government has come forward to utilize the services of the petitioner by including her for counseling to be called for, she is ready and willing to participate in the counseling and depending upon the availability of the vacancies and the orders to be passed by the respondents giving appointment / engagement of the petitioner and similarly placed persons, the petitioner is ready to take up such appointments and work in the institutions / hospitals concerned, where such postings are given by the respondents.”

17. With the above directions, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes/No
Internet : Yes/No
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To

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- 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, Government Kilpauk Medical
College and Hospital, Poonamallee High Road
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- 4.The Secretary, National Medical Commission
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R.SURESH KUMAR,J.

This writ petition has been posted today under the caption “for clarification” at the instance of Mr.Suhrith Parthasarathy, learned counsel appearing for the petitioner.

2. Learned counsel would submit that, the petitioner completed the PG Medical Course in May, 2020 and not in May, 2022. But, mistakenly, in the order dated 24.11.2022, it has been mentioned as May, 2022 instead of May, 2020.

3. As a sequel, it was construed that the bond period was not over and it would be over only in May, 2024. Taking into account of that position, this Court, while passing the order, as stated *supra*, has given directions to the petitioner as well as the respondents to comply with the same by filing an undertaking affidavit to the respondents to serve at the Government Institutions / Hospitals during the rest of the bond period.

4. I have considered the said submissions made by Mr.Suhrith



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Parthasarathy, learned counsel appearing for the petitioner and also Mr.U.M.Ravichandran, learned Special Government Pleader appearing for respondents 1 to 3 and Ms.Shubharanjani Ananth, learned Standing Counsel appearing for respondent 4.

5. Since it is an error, which has crept in mentioning the dates, where the petitioner completed the PG Medical Course, the necessary corrective action has to be undertaken. Therefore, certain clarification is required in the order dated 24.11.2022. Considering the same, the following orders are passed:

(a) Wherever the words May, 2022 occurs, that shall be treated as May, 2020 and wherever May, 2024 occurs, that shall be treated as May, 2022.

(b) As a result, paragraph 11 to paragraph 16 of the order dated 24.11.2022 shall be replaced with the following orders:

11. Insofar as the petitioner's case is concerned, since she has completed PG Medical Course in May, 2020, the two years' bond period was over by May,



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2022. As on date, there has been no compulsion for the petitioner to be subjected to any bond period for working for the Government Institutions or Hospitals. Therefore, the petitioner is entitled to get back the certificates, which was produced at the time of joining in the PG Medical Course. As a result, the following orders are passed in this writ petition:

That there shall be a direction to the respondents to release the certificates produced by the petitioner at the time of joining the PG Medical Course at the respondent Institution, which are held back so far by the respondents, to the petitioner forthwith preferably within a period of one week from the date of receipt of a copy of this order.

(c) The Registry is directed to carryout this clarification and issue the corrected copy of the clarified order to the parties.



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6. With this, the clarification is ordered accordingly.

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19.12.2022