



W.P.Nos.31828 & 31830 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.11.2022

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.Nos.31828 & 31830 of 2022

Dr.Aswin. P. ... Petitioner in W.P.No.31828 of 2022

Dr.Shreyas Doddihithlu ... Petitioner in W.P.No.31830 of 2022
-Vs-

1.The State of Tamil Nadu,
Represented by its Principal Secretary,
Health and Family Welfare Department
Secretariat, Fort St. George,
Chennai- 600 009.

2.Directorate of Medical Education,
Represented by the Deputy Director of
Medical Education,
Kilpauk, Chennai – 600 010. ... Respondents 1 and 2 in both W.Ps.

3. Thanjavu Medical College,
Represented by its Dean,
Medical College Rd, Thanjavur,
Tamil Nadu – 613 004. ... R3 in W.P.No.31828/2022

3. Coimbatore Medical College,
Represented by its Dean,
Avinashi Rd, Peelamedu,
Civil Aerodrome Post, Coimbatore,
Tamil Nadu – 641 018. ... R3 in W.P.No.31830/2022



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Common Prayer : Petitions filed 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 petitioners collected by the third respondent at the time of his admission.

For Petitioner : Mr.E.Manoharan
[in all W.Ps.]

For Respondents : Mr.U.M.Ravichandran
[in all W.Ps.] Special Government Pleader

COMMON ORDER

The prayer sought for herein is for a writ of mandamus directing the respondents to return the original certificates of the petitioners that were submitted by the petitioners at the time of their admission.

2. Both these petitioners completed their P.G. Degree course in Medicine in May 2019. At the time of joining in the course, both the petitioners produced their original certificates to the respondent institution and had also executed a bond, under which, they have stated that they would work or serve for the Government Hospital or Institutions for two years after completion of the P.G. Degree course, which is otherwise called as bond period.



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3. With these conditions even though they completed the course in May 2019 and waited during the bond period to get posting orders from the respondents to utilize the services of the petitioners, only after 19 months i.e., on 24.12.2020 such appointment orders were given by the respondents to both the petitioners. In the meanwhile, insofar as the petitioner in W.P.No.31828 of 2022 is concerned, he was given posting through the Kerala Public Service Commission by Kerala Government on 29.04.2020 and insofar as the petitioner in W.P.No.31830 of 2022 is concerned, at the time of offer from the respondents, since the petitioner was suffering from some ailment, he had to undergo severe treatment and therefore, he could not immediately accept the offer given by the respondents and subsequently, after recovered from the same, he was given posting in a college, where he is currently working.

4. At this juncture, now the petitioners approached the respondents to get back the certificates, which they produced at the time of joining the P.G. Degree course and that was refused by the respondents stating that they have not served in the Government Hospital or Institution during the bond period, despite the offer of appointments were given by the respondents. Therefore, the petitioners are before this Court by filing the present writ petitions.



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5. Heard Mr.E.Manoharan, learned counsel appearing for the petitioners, who having reiterated the aforesaid would submit that though the petitioners had waited for a long time i.e., about 19 months out of the 24 months bond period and thereafter only five months left, the offer had come from the respondents and at that time, since one petitioner had already joined in a Kerala Government Service and another petitioner suffered with some ailment, both the petitioners could not accept the offer. Therefore, at this juncture, the respondents may be directed to give back the certificates held back by the respondents without any pre-conditions.

6. However Mr.U.M.Ravichandran, learned Special Government Pleader appearing for the respondents would submit that during the bond period, whenever vacancy arises or need arises, then only their services would be utilised and in the case of the petitioners since such offer had come from the respondents, the petitioners have not come forward to accept the same. Therefore, for the remaining bond period, they must work in the Government Hospital or Institution and in this regard, counseling is yet to be started and they can also participate and wherever they want to work according to their choice of vacancies, which are available, they can work



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for the remaining period. Thereafter, they can take back the certificates or otherwise, if they want to take back the certificates they have to pay the entire bond fee or amount to the respondents, he contended.

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

8. Since the issue raised in these writ petitions is no more *res-integra*, as number of writ petitions have been filed in similar nature have been considered and orders were passed, where conditional permission were given to the petitioner to take back the certificates.

9. In view of the said legal position, which has already been considered in number of cases, this Court is inclined to dispose of these writ petitions with the following orders:

- ◆ That there shall be a direction to the respondents to consider the request of the petitioners for releasing the original certificates held back by the respondents on condition that the petitioners shall execute



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an undertaking affidavit to the respondents to work for remaining bond period of five months whenever the petitioners are called for on need basis or on emergency basis if the vacancy arises in this regard and once such call comes from the respondents, the petitioners shall honour the same.

- ◆ With the said condition of undertaking, if it is produced by the petitioners to the respondents, the original certificates held back by the respondents shall be returned back to the petitioners forthwith.

10. With the above observations and directions, these writ petitions are disposed of. No costs.

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Index : Yes / No

Speaking Order: Yes / No

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To

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Health and Family Welfare Department
Secretariat, Fort St. George,
Chennai- 600 009.
2. The Deputy Director of Medical Education,
Directorate of Medical Education,
Kilpauk, Chennai – 600 010.
3. The Dean,
Thanjavu Medical College,
Medical College Rd, Thanjavur,
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R.SURESH KUMAR, J.

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